

12-10-2015

State v. Anderson Clerk's Record Dckt. 43673

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO)	SUPREME COURT NUMBER
Plaintiff/Respondent)	
	)	43673
vs.)	
)	
Darol Keith Anderson)	
<u>Defendant/Appellant</u>)	

CLERK'S RECORD

APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI
THE HONORABLE JOHN T. MITCHELL, PRESIDING JUDGE
FIRST JUDICIAL DISTRICT, PRESIDING

Sara B. Thomas
State Appellate Public Defender
PO BOX 2816
Boise, ID 83703

MR. LAWRENCE WASDEN

ATTORNEY GENERAL
STATE OF IDAHO
700 W JEFFERSON, STE 210
BOISE, ID 83720

State of Idaho vs. Darol Keith Anderson

Date	Code	User	Judge
12/11/2014	NOTE	OREILLY	Judge Mitchell To Be Assigned
12/12/2014	NCRF	OREILLY	New Case Filed - Felony To Be Assigned
	CRCO	OREILLY	Criminal Complaint James D Stow
	AFPC	OREILLY	Affidavit Of Probable Cause To Be Assigned
	ORPC	OREILLY	Order Finding Probable Cause James D Stow
	WARI	OREILLY	Warrant Issued - Arrest Bond amount: 10000.00 Defendant: Anderson, Darol Keith Issued 12/16/14 James D Stow
	CSOS	OREILLY	Case Status Order *****SEALED***** To Be Assigned
	XSEA	OREILLY	Case Sealed To Be Assigned
	STAT	OREILLY	Case status changed: Inactive To Be Assigned
12/31/2014	HRSC	MCCANDLESS	Hearing Scheduled (Arraignment/First Appearance 01/14/2015 09:30 AM) Scott Wayman
		MCCANDLESS	Notice of Hearing To Be Assigned
1/14/2015	FTAH	BUTLER	Hearing result for Arraignment/First Appearance scheduled on 01/14/2015 09:30 AM: Failure To Appear For Hearing Or Trial Scott Wayman
1/20/2015	WRTA	LEGARD	Arrest Warrant Returned, Served Defendant: Anderson, Darol Keith To Be Assigned
	CSOR	LEGARD	Case Status Order *****OPEN***** To Be Assigned
	XUNS	LEGARD	Case Unsealed To Be Assigned
	STAT	LEGARD	Case status changed: Pending To Be Assigned
	HRSC	LEGARD	Hearing Scheduled (Arraignment/First Appearance 01/20/2015 01:00 PM) Anna Eckhart
	ARRN	LEGARD	Hearing result for Arraignment/First Appearance scheduled on 01/20/2015 01:00 PM: Arraignment / First Appearance Clark A. Peterson
	ORPD	LEGARD	Defendant: Anderson, Darol Keith Order Appointing Public Defender Public defender Public Defender Clark A. Peterson
	CRNC	LEGARD	No Contact Order: Criminal No Contact Order Filed Comment: Stay 300ft Away From Expiration Days: 365 Expiration Date: 1/20/2016 Clark A. Peterson
	ORBC	LEGARD	Order Setting Bond and Conditions of Release Clark A. Peterson
1/21/2015	NCOS	STHOMAS	No Contact Order Served To Be Assigned
1/22/2015	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing Status Conference 02/03/2015 08:30 AM) Clark A. Peterson
	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing 02/03/2015 01:30 PM) Clark A. Peterson
		HOFFMAN	Notice of Preliminary Hearing Status Conference and Preliminary Hearing To Be Assigned

State of Idaho vs. Darol Keith Anderson

Date	Code	User		Judge
1/23/2015	HRSC	POOLE	Hearing Scheduled (Motion to Amend 02/03/2015 08:30 AM) PA	Clark A. Peterson
	PRQD	ESPE	Plaintiff's Request For Discovery	To Be Assigned
	PRSD	ESPE	Plaintiff's Response To Discovery	To Be Assigned
1/28/2015	NAPH	MCCANDLESS	Notice of Appearance, Request for Timely Preliminary Hearing, Motion for Bond Reduction and Notice of Hearing	To Be Assigned
	DRQD	MCCANDLESS	Defendant's Request For Discovery	To Be Assigned
	DRSD	MCCANDLESS	Defendant's Response To Discovery	To Be Assigned
	SUBN	BAXLEY	Subpoena returned/not found for EM	To Be Assigned
	SUBF	BAXLEY	Subpoena Return/found - LMP	To Be Assigned
1/29/2015	SUBC	MMILLER	Substitution Of Counsel	To Be Assigned
	MOTN	MCCANDLESS	Motion to Amend Complaint	To Be Assigned
	MOTN	MCCANDLESS	Motion to Shorten Time	To Be Assigned
	NOTH	MCCANDLESS	Notice Of Hearing	To Be Assigned
2/3/2015	HRHD	POOLE	Hearing result for Preliminary Hearing Status Conference scheduled on 02/03/2015 08:30 AM: Hearing Held	Clark A. Peterson
	HRHD	POOLE	Hearing result for Motion to Amend scheduled on 02/03/2015 08:30 AM: Hearing Held PA	Clark A. Peterson
	ORDR	POOLE	Order to Shorten Time	Clark A. Peterson
	ORDR	POOLE	Order to Amend the Complaint	Clark A. Peterson
	AMCO	POOLE	Amended Complaint Filed	Clark A. Peterson
	REDU	POOLE	Charge Reduced Or Amended (I18-923 Strangulation (Attempted))	Clark A. Peterson
	SUBF	LUNNEN	Subpoena Return/found-SM	To Be Assigned
	PHHD	POOLE	Hearing result for Preliminary Hearing scheduled on 02/03/2015 01:30 PM: Preliminary Hearing Held PA - 3 witnesses	Clark A. Peterson
	BOUN	POOLE	Bound Over (after Prelim)	Clark A. Peterson
	ORHD	POOLE	Order Holding Defendant	Clark A. Peterson
2/5/2015	MNPH	MMILLER	Motion For Preparation Of Preliminary Hearing Transcript	John T. Mitchell
2/9/2015	ORDR	CLAUSEN	Order for Preparation of Preliminary Hearing Transcript	John T. Mitchell
2/18/2015	KITE	STHOMAS	Inmate Request Form	John T. Mitchell
3/6/2015	NLTR	MCCANDLESS	Notice of Lodging Transcript Prelim	John T. Mitchell
3/9/2015	RECT	MCCANDLESS	Receipt Of Transcript Prelim KCPA Office	John T. Mitchell
3/10/2015	MNEV	MMILLER	Motion For Evaluation Pursuant To I.C. 18-210, 18-211	John T. Mitchell

State of Idaho vs. Darol Keith Anderson

Date	Code	User	Judge
3/12/2015	ORDR	RILEY	Order for Evaluation Pursuant to I.C. 18-210, 18-211 John T. Mitchell
3/18/2015	HRSC	CLAUSEN	Hearing Scheduled (Arraignment in District Court 04/13/2015 03:00 PM) John T. Mitchell
		CLAUSEN	Notice of Hearing John T. Mitchell
3/19/2015	RCPH	MMILLER	Receipt Of Preliminary Hearing Transcript by J. Lynn Brooks John T. Mitchell
3/23/2015	KITE	HODGE	Inmate Request Form John T. Mitchell
3/24/2015	KITE	HODGE	Inmate Request Form John T. Mitchell
3/26/2015	KITE	CLAUSEN	Inmate Request Form - Referred to Defense Attorney & KCPA John T. Mitchell
3/27/2015	MNTP	MCCANDLESS	Motion To Transport John T. Mitchell
			Document sealed
3/30/2015	ORDR	CLAUSEN	Order to Transport John T. Mitchell
			Document sealed
4/2/2015	HRSC	CLAUSEN	Hearing Scheduled (Bond Hearing 04/13/2015 03:00 PM) L. Brooks John T. Mitchell
	MROR	MCCANDLESS	Motion To Release Defendant On Own Recognizance Or To Reduce Bond John T. Mitchell
	NOTH	MCCANDLESS	Notice Of Hearing John T. Mitchell
4/13/2015	AINF	TBURTON	Amended Information John T. Mitchell
	ORDR	TBURTON	Order John T. Mitchell
	DCHH	TBURTON	Hearing result for Bond Hearing scheduled on 04/13/2015 03:00 PM: District Court Hearing Held Court Reporter: Number of Transcript Pages for this hearing estimated: L. Brooks John T. Mitchell
	DCHH	TBURTON	Hearing result for Arraignment in District Court scheduled on 04/13/2015 03:00 PM: District Court Hearing Held Court Reporter: Number of Transcript Pages for this hearing estimated: John T. Mitchell
	PLEA	TBURTON	A Plea is entered for charge: - NG (I18-918(3)(b) {F} Battery-Domestic Violence) John T. Mitchell
	PLEA	TBURTON	A Plea is entered for charge: - NG (I18-905 Assault-Aggravated) John T. Mitchell
	PLEA	TBURTON	A Plea is entered for charge: - NG (I18-923 Strangulation (Attempted)) John T. Mitchell
	PLEA	TBURTON	A Plea is entered for charge: - NG (I18-918(3)(b) {M} Battery-Domestic Violence Without Traumatic Injury Against a Household Member) John T. Mitchell
	PLEA	TBURTON	A Plea is entered for charge: - NG (I18-905 Assault-Aggravated) John T. Mitchell

State of Idaho vs. Darol Keith Anderson

Date	Code	User	Judge
4/14/2015	EVAL	MCCANDLESS	Evaluation Document sealed John T. Mitchell
4/15/2015	HRSC	TBURTON	Hearing Scheduled (Pre-Trial Conference 07/15/2015 02:00 PM) John T. Mitchell
	HRSC	TBURTON	Hearing Scheduled (Court Trial Scheduled 07/20/2015 09:00 AM) 3 DAYS 1st Priority John T. Mitchell
		TBURTON	Notice of Hearing John T. Mitchell
4/17/2015	EVAL	LUCKEY	Evaluation Document sealed John T. Mitchell
4/20/2015	MOTN	CLAUSEN	Motion for Court to Exercise Discretion to Request Appointment of Another Judge to Consider Defense Request for Public Funds John T. Mitchell
4/22/2015	PLWL	LUNNEN	Plaintiff's Witness List John T. Mitchell
	HRSC	CLAUSEN	Hearing Scheduled (Motion 05/04/2015 04:00 PM) Request for Funds; Brooks John T. Mitchell
	NOTH	LUNNEN	Notice Of Hearing John T. Mitchell
4/23/2015	KITE	HODGE	Inmate Request Form - Forwarded to Counsel John T. Mitchell
4/27/2015	SUBF	LUNNEN	Subpoena Return/found-SM John T. Mitchell
5/4/2015	DCHH	CLAUSEN	Hearing result for Motion scheduled on 05/04/2015 04:00 PM: District Court Hearing Hel Court Reporter: JULIE FOLAND John T. Mitchell
	MOTN	CLAUSEN	Exparte Motion for Investigative Services to be Paid from County Funds John T. Mitchell
5/5/2015	ORDR	CLAUSEN	Order on Motion for Investigative Services to be Paid from County Funds John T. Mitchell
5/12/2015	DSRQ	LUNNEN	Defendant's Supplemental Request For Discovery John T. Mitchell
5/15/2015	PRSD	KIPP	Plaintiff's Response To Defendant's Supplemental Request For Discovery John T. Mitchell
	KITE	LUNNEN	Inmate Request Form; Forwarded to Counsel John T. Mitchell
6/9/2015	KITE	LUCKEY	Inmate Request Form John T. Mitchell
6/17/2015	KITE	LUCKEY	Inmate Request Form Re: Prior Kite To Judge McGee John T. Mitchell
6/29/2015	SUBF	JLEIGH	Subpoena Return/found - ATR John T. Mitchell
6/30/2015	MOTN	LSMITH	Motion to Require Kootenai County sheriff's Office to Accept Clothing for Defendant to Wear During Jury Trial John T. Mitchell
	DFWL	LSMITH	Defendant's Witness List John T. Mitchell
	DSRS	ROBB	Defendant's Supplemental Response To State's Request For Discovery John T. Mitchell
7/1/2015	SUBF	JLEIGH	Subpoena Return/found - LMP John T. Mitchell
7/13/2015	DFWL	DONNENWIRT	Defendant's Amended Witness List John T. Mitchell

State of Idaho vs. Darol Keith Anderson

Date	Code	User		Judge
7/13/2015	DRJI	DONNENWIRT	Defendant's Requested Jury Instructions	John T. Mitchell
7/14/2015	ORDR	CLAUSEN	Order Requiring Kootenai County Sheriff's Office to Accept Clothing for Defendant to Wear During Jury Trial	John T. Mitchell
7/16/2015	DCHH	CLAUSEN	Hearing result for Pre-Trial Conference scheduled on 07/15/2015 02:00 PM: District Court Hearing Held Court Reporter: JULIE FOLAND	John T. Mitchell
	MOTN	CLAUSEN	Motion in Limine	John T. Mitchell
7/17/2015	HRSC	CLAUSEN	Hearing Scheduled (Motion 07/20/2015 08:30 AM) Pretrial Motions	John T. Mitchell
	PLWL	HODGE	Plaintiff's Amended Witness List	John T. Mitchell
	PRJI	MCCANDLESS	Plaintiff's Requested Jury Instructions	John T. Mitchell
7/20/2015	ORDR	CLAUSEN	Order Declaring Witness Unavailable	John T. Mitchell
	MOTN	CLAUSEN	2nd Motion in Limine	John T. Mitchell
	DCHH	CLAUSEN	Hearing result for Motion scheduled on 07/20/2015 08:30 AM: District Court Hearing Held Court Reporter: KIM HANNAN	John T. Mitchell
	JTST	CLAUSEN	Hearing result for Jury Trial Scheduled scheduled on 07/20/2015 09:00 AM: Jury Trial Started 3 DAYS 1ST SET	John T. Mitchell
	DCHH	CLAUSEN	District Court Hearing Held Court Reporter: KIM HANNAN	John T. Mitchell
7/21/2015	HRSC	CLAUSEN	Hearing Scheduled (Sentencing 09/15/2015 03:00 PM)	John T. Mitchell
	DCHH	CLAUSEN	District Court Hearing Held Court Reporter: JULIE FOLAND 100 Pages 2ND DAY JURY TRIAL	John T. Mitchell
	VERD	CLAUSEN	Verdict	John T. Mitchell
	CFJI	CLAUSEN	Court's Final Jury Instructions	John T. Mitchell
	PSIO1	CLAUSEN	Pre-Sentence Investigation Evaluation Ordered & Sentencing Date	John T. Mitchell
	PLEA	CLAUSEN	A Plea is entered for charge: - GT (I18-918(3)(b) {F} Battery-Domestic Violence)	John T. Mitchell
	PLEA	CLAUSEN	A Plea is entered for charge: - GT (I18-918(3)(b) {M} Battery-Domestic Violence Without Traumatic Injury Against a Household Member)	John T. Mitchell
	ACQU	CLAUSEN	Acquitted (after Trial) (I18-905 Assault-Aggravated)	John T. Mitchell
	ACQU	CLAUSEN	Acquitted (after Trial) (I18-923 Strangulation (Attempted))	John T. Mitchell

State of Idaho vs. Darol Keith Anderson

Date	Code	User		Judge
7/21/2015	ACQU	CLAUSEN	Acquitted (after Trial) (I18-905 Assault-Aggravated)	John T. Mitchell
7/23/2015	SUBN	JLEIGH	Subpoena returned/not found - JLC	John T. Mitchell
7/24/2015	KITE	DONNENWIRT	Inmate Request Form	John T. Mitchell
7/28/2015	KITE	LUCKEY	Inmate Request Form	John T. Mitchell
	MOTN	LUCKEY	Motion For Global Resolution	John T. Mitchell
	LETD	LUCKEY	Letter From Defendant	John T. Mitchell
8/10/2015	MOTN	LUCKEY	Motion For Cost Of Domestic Violation Evaluation To Be Paid From County Funds	John T. Mitchell
8/14/2015	ORDR	CLAUSEN	Order on Motion for Cost of Domestic Violence Evaluation to be Paid from County Funds	John T. Mitchell
8/17/2015	PSRS	LSMITH	Plaintiff's Supplemental Response To Discovery	John T. Mitchell
	KITE	MCCANDLESS	Inmate Request Form RE: Letter	John T. Mitchell
8/25/2015	KITE	HODGE	Inmate Request Form	John T. Mitchell
8/28/2015	NFUS	MCCANDLESS	Notice of Filing Under Seal	John T. Mitchell
	EVAL	MCCANDLESS	Evaluation Domestic	John T. Mitchell
			Document sealed	
9/1/2015	MISC	SASSER	FILE #2 OUT OF 2 CREATED	John T. Mitchell
9/8/2015	PSIR	CLAUSEN	Presentence Investigation Report	John T. Mitchell
			Document sealed	
9/15/2015	DCHH	CLAUSEN	Hearing result for Sentencing scheduled on 09/15/2015 03:00 PM: District Court Hearing Hel Court Reporter: JULIE FOLAND	John T. Mitchell
	SNPF	HODGE	Sentenced To Pay Fine (I18-918(3)(b) {M} Battery-Domestic Violence Without Traumatic Injury Against a Household Member)	John T. Mitchell
	SNIC	HODGE	Sentenced To Incarceration (I18-918(3)(b) {M} Battery-Domestic Violence Without Traumatic Injury Against a Household Member) Confinement terms: Jail: 365 days. Credited time: 365 days.	John T. Mitchell
	JDMT	HODGE	Judgment	John T. Mitchell
	SNPF	HODGE	Sentenced To Pay Fine (I18-918(3)(b) {F} Battery-Domestic Violence)	John T. Mitchell
	SNIC	HODGE	Sentenced To Incarceration (I18-918(3)(b) {F} Battery-Domestic Violence) Confinement terms: Credited time: 243 days. Penitentiary determinate: 4 years. Penitentiary indeterminate: 6 years.	John T. Mitchell
	STAT	HODGE	Case status changed: closed pending clerk action	John T. Mitchell
	EXSP	HODGE	Execution Of Judgment Suspended - (365 Days)	John T. Mitchell

State of Idaho vs. Darol Keith Anderson

Date	Code	User		Judge
9/15/2015	JDMT	HODGE	Sentencing Disposition and Notice of Right to Appeal	John T. Mitchell
9/22/2015	FILE	MCCANDLESS	New File Created #3 PSI	John T. Mitchell
10/19/2015	LETD	MCCANDLESS	Letter From Defendant	John T. Mitchell
10/23/2015	APSC	LUNNEN	Appealed To The Supreme Court	John T. Mitchell
10/26/2015	MOTN	CLAUSEN	Motion for Appointment of State Appellate Public Defender in Direct Appeal; Retaining Trial Counsel for Residual Purposes	John T. Mitchell
	ORDR	CLAUSEN	Order for Appointment of state Appellate Public Defender in Direct Appeal; Retaining trial Counsel for Residual Purposes	John T. Mitchell
11/9/2015	NAPL	KIPP	Notice Of Appeal Due Date From Supreme Court	John T. Mitchell
11/23/2015	NLTR	LUCKEY	Notice of Lodging Transcript -- Julie Foland 122 pages	John T. Mitchell

Barry McHugh
Prosecuting Attorney
501 N. Government Way
Coeur d'Alene, ID 83815
Telephone: (208) 446-1800
Facsimile: (208) 446-1833

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: ss

2014 DEC 12 AM 10:37

CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff

vs

Name: Darol Keith Anderson

Dob: [REDACTED]

SSN: [REDACTED]

AGENCY CASE NO. 14c29588

Defendant

Case No.

**AFFIDAVIT IN SUPPORT
OF PROBABLE CAUSE**

CR 14-22653

County of KOOTENAI, STATE OF IDAHO, to:

Detective **Johann A. Schmitz**, being first duly sworn, deposes and says that:

I am a detective for the Coeur d' Alene Police Department for the City of Coeur d'Alene. The basis for the request for the issuance of a **Warrant** is set forth in the police report attached hereto and incorporated herein. I further depose and say that I have read the report and all the contents are true and correct to the best of my knowledge, and that I am the author or that I personally know the author of the report to be a law enforcement officer whom I believe to be credible and reliable.

DATED this 12th day of December, 2014.

AFFIANT

SUBSCRIBED and SWORN to before me on this 12th day of December, 2014.

BRANDON A. McCORMICK
Notary Public
State of Idaho

NOTARY PUBLIC FOR IDAHO

RESIDING AT: COE, ID

COMMISSION EXP. OCTOBER 30th, 2015



Coeur d'Alene Police

Report for CDA Incident 14C29588

Nature: BATTERY/DOMESTIC
Location: 83

Address: 1410 E STINER AVE
COEUR D'ALENE ID 83815

Offense Codes: ASIM

Received By: E.CREIGHTON

How Received: 9

Agency: CDA

Responding Officers:

Responsible Officers: SP.MORTENSEN

Disposition: ACT 09/07/14

When Reported: 13:47:00 09/07/14

Occurred Between: 13:46:04 09/07/14 and 13:46:07 09/07/14

Assigned To: N.Lowry
Status: AP

Detail: DBAT
Status Date: 12/09/14

Date Assigned: 09/10/14
Due Date: 09/10/15

Complainant: 395293

Last: PRESTON

First: LAWRENCE

Mid: MICHAEL

DOB: [REDACTED]

Dr Lic: CC217773E

Address: [REDACTED]

Race: W **Sex:** M

Phone: [REDACTED]

City: COEUR D'ALENE, ID 83815

Offense Codes

Reported: NC Not Classified

Observed: ASIM Assault, Simple

Additional Offense: ASIM Assault, Simple

Circumstances

VIPR VIPR EVIDENCE STORAGE - CDAPD

Responding Officers:

Unit :

SP.MORTENSEN

K77

A.WINSTEAD

K25

J.WIEDEBUSH

K84

Responsible Officer: SP.MORTENSEN

Agency: CDA

Received By: E.CREIGHTON

Last Radio Log: **.*:*** **/**/**

How Received: 9 911 Line

Clearance: 6 REPORT TAKEN

When Reported: 13:47:00 09/07/14

Disposition: ACT **Date:** 09/07/14

Judicial Status:

Occurred between: 13:46:04 09/07/14

Misc Entry:

and: 13:46:07 09/07/14

Modus Operandi:

Description :

Method :

LT

LOCATION TYPE

LT20

RESIDENCE/HOME

D	DRUGS/LIQUOR	D33
VR	VICTIM: RELATIONSHIP	VR-SE SPOUSE
WT	WEAPONS / TOOLS USED	WT40 PERSONAL
		WPNS
WT	WEAPONS / TOOLS USED	WT30 BLUNT OBJECT
VI	VICTIM: INJURIES	VI-M MINOR INJURY

Involvements

Date	Type	Description	
09/08/14	Name	CRILE, JAMES LLOYD JR	MENTIONED
09/08/14	Name	RECIO, AMY TERESE	MENTIONED
09/07/14	Name	ANDERSON, DAROL KEITH SR	VICTIM/OFFENDER
09/07/14	Name	WATTS, MALISSA ANN	WITNESS
09/07/14	Name	PRESTON, LAWRENCE MICHAEL II	Complainant
09/07/14	Name	MESSERLY, ERICA JEAN	VICTIM/OFFENDER
09/07/14	Cad Call	13:47:00 09/07/14 DOMESTIC DISPUT	Initiating Call

Narrative

OFFICER: S.Mortensen K77

FELONY: X

Darol Anderson's Charges:

Aggravated Battery - 18-907(1)
Attempted Strangulation - 18-923

Erica Messerly's Charge:

Domestic Battery - 18-918

NARRATIVE:

I was dispatched to 1410 Stiner Ave for a physical domestic dispute. The Reporting party, Lawrence Preston, told dispatch the dispute was male versus female. The male was Darol Anderson. They male left in a silver Honda Accord.

On scene, I spoke with a female, verbally identified as Erica Messerly. She appeared to be nervous as I spoke with her. I observed several bruises and cuts on her neck and face. She refused medical attention. She told me the following:

Erica and Darol were married and had been living together. They had been married since December 2013 and living together for approximately 3 months. They did not have any children in common.

Erica and Darol had been verbally arguing for approximately 2 days. The night of 09/06/14 around 0000 hours, Erica and Darol were lying in bed at the residence. They were laying in a spooning position. Erica was upset because she had found inappropriate photos on Darols' cell phone that he had sent to another female. While lying in bed, she kicked him in the back, causing him to partially fall off the bed. Darol became angry with her. He got back on the bed and straddled her as she was laying on the bed. He grabbed on to her trachea with his thumb and index finger and squeezed hard. She said he squeezed so hard that she was unable to breath. He did this for approximately 5 seconds. She did not lose consciousness nor did she see stars. As he was squeezing her trachea, Erica defensively scratched at his face. She explained that there should be a scratch mark next to his right eye as a result of her defensive scratching. Darol got off of the bed and walked down stairs. She followed him down stairs. She walked up to him and grabbed the cell phone out of his hands. She did not make physical contact with him when she did this. She took the cell phone and threw it in the toilet. With his right fist, Darol punched Erica in the face. She showed me the mark on the right side of the bridge of her nose. She said the mark was from him hitting her. Darol walked upstairs. Erica ran out of the residence. While Erica was outside of the residence, Darol locked all of the doors to the residence so she could not get back in. Erica walked to a neighbor's residence on 14th St to request help getting back into her residence. Erica did not know the names of the people or the street address of the neighbors. The male (unknown) at the residence went to Erica's residence with her. The front door was unlocked again. Erica and the male entered the residence. Darol was hiding in the laundry room holding a metal pipe. He exited the laundry room and threatened the male with the pipe, accusing the male

of sleeping with Erica. The male exited the residence and told Erica she could stay at his residence if she wanted to. She began to walk down the front porch toward the driveway. As Erica was walking, Darol grabbed her by the hair from behind and pulled her back into the residence. The male left at that point. Once inside the residence, Darol punched Erica in the face with a closed fist and briefly knocked her out. She fell to the floor. While she was on the floor, Darol punched her in the back of the head 4-5 times and in the right side of the neck a couple of times. Erica stood up, walked to the couch, and sat down. She begged Darol to stop and go to bed. He refused to go to bed. He grabbed steak knife with a wooden handle and walked up in front of Erica. With his right hand he held the back of her head. With his left hand, Darol held the knife up to her throat. She showed me a small cut mark on the center of her throat. As he did this, Erica grabbed onto his abdomen and squeezed. This was in self-defense. He threw the knife down and started biting the right side of Erica's neck and shoulder. She showed me the marks Darol left on her neck and right shoulder. Erica explained that the residence did not have power at the time of the incident. Most of the incident occurred in the dark. She did have a flashlight. Darol had walked away into the darkness. He returned to her and told her to turn the flashlight off. She turned the flashlight off. Darol told her to turn the flashlight back on a few seconds later. When she turned the flashlight on, Darol was holding the metal pipe. He swung it at her head, but stopped the swing before he made contact with her. He then took the pipe and jabbed it into Erica's left side. Erica showed me deep purple bruising on her right side from being jabbed. She attempted to go into the garage. He grabbed her and punched her in the back of the head twice. She began to scream and he left her alone. Erica exited the residence and walked back over to the same neighbor's residence. The neighbor drove her to Malissa Watts' residence.

Erica was in fear during the incident.

Erica took me inside the residence. She was unable to find the knife or the pipe Darol used to batter her with.

Erica showed me the address she had gone to that night, where the male lives. Officer AC Winstead went to the address and spoke with the male. Refer to his supplemental report for further information.

I spoke with a female, verbally identified as Malissa Watts. She witnessed part of the incident. She told me the following:

On 09/06/14, at 1430 hours, Malissa and Erica went to the residence to get some of her clothing items. They both went into the residence. Darol was hiding in a closet area. Once in the residence, he came out of hiding and appeared to be on drugs. While there were in the residence, Darol was seated on a couch in the living room. Erica approached him and asked for her keys and cigarettes. With one of his feet, he kicked her in the stomach. The kick lifted her up off of her feet and she fell to the floor. She got up and started punching him back. He kicked her in the stomach again in the same manner. Darol got up and started walking around the residence. Malissa and Erica continued to tell him to leave the residence. He eventually left.

Just before the call for service on 09/07/14, there was an incident where Darol had Erica's cell phone. She attempted to grab it from him. He then grabbed her from behind while in the driveway and began to pull her backward. The neighbor, Lawrence Preston, observed this and announced he was going to call the police. Darol left at that point.

I spoke with Erica regarding this incident. She told me the following:

Erica and Malissa went to the residence on 09/06/14 at 1400 hours. Darol had been hiding in the closet. While they were there, Darol had her cell phone. There upstairs at this point. Erica asked for the phone back. Darol kicked her in the stomach, causing her to fall back into a dresser. She denied the incident occurred as Malissa had described it.

I took photos of all of Erica's visible injuries. I did not observe any injuries on the back of her head due to her having a lot of hair. I observed her eyes. I did not observe any popped blood vessels. I provided her with a DV pamphlet. She was no longer staying at her residence. She was staying with Malissa. She did not need a ride.

Officer AC Winstead briefly spoke with Darol on the phone. Darol was uncooperative with him and hung up the phone.

I uploaded the photos and video into VIPER.

Approved By

Date

Supplement**Incident Number:** 14C29588 **Nature:** BATTERY/DOMESTIC **Incident Date:** 08:32:19 09/08/2014**Name:** A.WINSTEAD **Date:** 07:25:00 09/08/2014

Supplement #14C29588 AC Winstead K-25

Assigned Detective: Pending

On 09/07/14 I responded to the area of 1410 Stiner to assist Officer Mortensen with finding the male half of a physical domestic that had just occurred.

It was being reported that Darol Anderson had just left the area in a silver Honda Accord after a dispute with Erica Messerly.

I was unable to locate Darol in the area and responded to Officer Mortensen's location at the residence with Erica. I got Darol's cell phone number from Erica, 208-889-9121 and reached him on it. Darol was very excited and did not allow me to interject very much. He said he didn't do anything and did not touch Erica. He said we are being lied to and he left because he would have went to jail. Darol mentioned a couple of times that he would not meet with me to give his side of the story and would just go talk to the prosecutor on Monday. I tried convincing Darol to meet with LE for a statement, but he would not. The only thing I could make out of his excitedly fast speaking was that he was in bed and "she" started to hit him because she said he was 'beating off' and 'fucking the neighbor'. He also mentioned that he ran out of the residence to his vehicle. He said Erica was beating on him and he actually had to push her out of the car to drive away. Darol eventually hung up on me as we spoke. See Viewu recording of this conversation.

I responded to 2834 N 14th St as requested by Officer Mortensen. He asked that I speak with the male and female there who may have witnessed some of the incident today and the previous night. I spoke with Amy Recio and James Crile. They did not know Erica, but said she came over in the early morning hours and asked to get help "breaking" into her residence. James walked over to her residence with her. He saw Darol running around inside and yelling. He told Erica he didn't want to get involved, but if she needed to come to their residence for anything she could. Amy and James said they never witnessed any events between Erica and Darol.

K-25

Supplement

Incident Number: 14C29588 **Nature:** BATTERY/DOMESTIC **Incident Date:** 08:28:47 12/09/2014

Name: N.Lowry **Date:** 07:16:33 09/16/2014

MISDEMEANOR: FELONY:XXX

DATE: 09/16/14

INCIDENT#: 14C29588

CRIME: Domestic Battery

VICTIM: Erica

SUSPECT: Darol

CRIME LOCATION: 141 E Stiner Ave

SUPP BY: Lowry K-33

MEDIA:

SUMMARY:

INVESTIGATIVE NARRATIVE:

09/30/14: I have read and reviewed this case. I have attempted to get ahold of DAROL two times so far and have not gotten any return phone calls.

10/01/14: I got a voicemail from DAROL stating he was working atop a mountain and was difficult to reach. I called him back and was able to get in touch with him, but it was difficult to talk to him because his phone was breaking up. He advised me he would not come in because he was out of town in Montana working. I advised him I would do a phone interview but we needed a better connection. He called me back a short while later. See audio for full details below is a synopsis of what he told me.

The fight started the night prior when they were laying in bed. ERICA got made at DAROL and accused him of cheating on her with the neighbor and that he was masturbating in bed next to her. ERICA then began to kick him and told DAROL he needed to get out of the house. He tried to explain to her that there was no gas and he had no money so it was not the best idea for him to just get up and go. DAROL said there was nothing physical other than ERICA kicking him. ERICA did come back the next day and she had a friend with her. That day ERICA attacked him and hit him a couple of times. When she came back she had a friend

with her and she was also yelling that DAROL was attacking ERICA as he was trying to leave. DAROL told me that I could talk to the neighbors directly across the street and they would advise me that he was attacked by ERICA. He also advised me to talk to a KIM because she had photos of him and he has photos on his Google account. DAROL began to get upset at me and said I was just trying to get another notch in my belt. I advised him I wanted his side of the story and would have someone in Montana take a statement from him if he would be willing to do that. DAROL was not willing to give his location and said he was being honest ERICA attacked him and kicked his ass three times. I advised him I needed details and he said I did not. I advised DAROL a couple times his lack of detailed statement could result in a warrant for his arrest and he advised me to do whatever I thought was necessary. He wanted ERICA to talk a lie detector test because she would fail it. I advised him it was not admissible in court so we would not be doing that. DAROL asked me to make a statement to him and if I answered it right he would come into the PD. I made the statement he requested and then DAROL later said he was not going to come in because he cannot afford it. DAROL said he got his ass kicked three times by ERICA and that was all I needed to know. He also told me he was not willing to pursue charges against ERICA. DAROL also said he knows ERICA will not testify against him nor will MALISSA. DAROL then told me to have a good day and hung up.

I researched (208) 819-0849, KIM's number, but could not find anything. I called it and left a message.

I found a new number for ERICA and I called her. I got her brother WADE who said she was busy driving, but would call me back when she was free.

DAROL called and stated all further contact would have to be through his attorney STEVE FRAMPTON

10/02/14: I received a phone call from (208) 819-0849. It was ARNOLD HANKINS who advised me he did not know a DAROL ANDERSON and did not know a KIM.

I spoke with ERICA on the phone. She advised me she would be in town on 10/03/14 and would come in to see me.

ERICA never came in to see me.

11/25/14: I researched DAROL ANDERSON. I see he has a current NCO between he and ERICA that was issued on 11/05/14 out of SHOSHONE County.

12/09/14: I have been unable to reach either DAROL or ERICA. I contacted SHOSHONE and was advised the last time they saw either one was just after DAROL being arrested. There was information they may be headed to Montana.

I will send this down for review.

Status: AP

Name Involvements:**Complainant :** 395293**Last:** PRESTON**First:** LAWRENCE**Mid:** MICHAEL**DOB:** [REDACTED]**Race:** W**Sex:** M**Phone:** [REDACTED]**City:** COEUR D'ALENE, ID 83815**WITNESS :** 284148**Last:** WATTS**First:** MALISSA**Mid:** ANN**DOB:** [REDACTED]**Race:** W**Sex:** F**Phone:** [REDACTED]**City:** COEUR D'ALENE, ID 83814**MENTIONED :**206780**Last:** RECIO**First:** AMY**Mid:** TERESE**DOB:** [REDACTED]**Race:** W**Sex:** F**Phone:** [REDACTED]**City:** COEUR D'ALENE, ID 83815**VICTIM/OFFE**521476**NDER :****Last:** MESSERLY**First:** ERICA**Mid:** JEAN**DOB:** [REDACTED]**Race:** W**Sex:** F**Phone:** [REDACTED]**City:** COEUR D'ALENE, ID 83815**VICTIM/OFFE**545**NDER :****Last:** ANDERSON**First:** DAROL**Mid:** KEITH**DOB:** [REDACTED]**Race:** W**Sex:** M**Phone:** [REDACTED]**City:** POST FALLS, ID 83854**MENTIONED :**184447**Last:** CRILE**First:** JAMES**Mid:** LLOYD**DOB:** [REDACTED]**Race:** W**Sex:** M**Phone:** [REDACTED]**City:** COEUR D'ALENE, ID 83815

ORDER

The above named defendant having been charged with the offense(s) of
(F) DOMESTIC BATTERY 18-6103, 18-6118(2)
AGG. ASSAULT 18-901
(M) DOMESTIC BATTERY 18-918(3)(b)

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2014 DEC 12 AM 10: 37

, and the Court having examined the affidavit and police report, the Court finds probable cause based on substantial evidence, for believing that said offense has been committed and that the said Defendant committed it.

CLERK DISTRICT COURT
Andy Kelly
DEPUTY

IT IS THEREFORE ORDERED that a Warrant be issued for the appearance for the above named Defendant.

ENTERED this 12th day of Dec., 2014.


MAGISTRATE

CR14-22653

 ORIGINAL

BARRY MCHUGH
Kootenai County Prosecuting Attorney
501 N. Government Way/P.O. Box 9000
Coeur d'Alene, ID 83816-9000
Telephone Number: (208) 446-1800
Fax Number: (208) 446-1833

STATE OF IDAHO } SS
COUNTY OF KOOTENAI }
FILED: 12/12/14
AT _____ O'CLOCK _____ M
CLERK, DISTRICT COURT
Cindy Kelly
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,

vs.

DAROL KEITH ANDERSON

DOB [REDACTED]

SSN: [REDACTED]

Defendant.

Case No. CR-F14- 22653

CRIMINAL COMPLAINT

Agency Case: 14C29588

DETROIT J. SCHMIDT, appeared personally before me, and being first
duly sworn on oath, that the above named defendant did commit the crime(s) of: **COUNT I,**
DOMESTIC BATTERY a Felony, Idaho Code §18-903, 18-918(2), **COUNT II,**
AGGRAVATED ASSAULT a Felony, Idaho Code §18-901, 18-905, and **COUNT III,**
DOMESTIC BATTERY a Misdemeanor, Idaho Code §18-903, 18-918(3)(b), committed as
follows:

COUNT I

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the
County of Kootenai, State of Idaho, did willfully and unlawfully use force and/or violence upon
the person of Erica Messerly, and by committing said battery, did inflict a traumatic injury upon

Mitchell

the person of Erica Messerly, to-wit: a cuts and/or bruises, and where Erica Messerly and the Defendant are have a dating relationship and/or are household members;

COUNT II

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by act and/or word to do violence upon the person of Erica Messerly, with a deadly weapon or instrument, to wit: a knife, which created a well-founded fear in Erica Messerly that such violence was imminent;

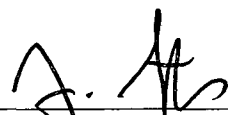
COUNT III

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 7, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Erica Messerly, where Erica Messerly and the Defendant are have a dating relationship and/or are household members, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the people of the State of Idaho. Said complainant therefore prays for a Warrant to be issued and for proceedings according to law.

DATED this 12th day of December, 2014.


COMPLAINANT

20 14. SUBSCRIBED AND SWORN to before me this 12th day of Dec.,


MAGISTRATE

Description	CR 2014-22653 Anderson, Darol 20150114 Arraignment First Appearance Judge Wayman Clerk Wanda Butler <i>Wanda Butler</i>		
Date	1/14/2015	Location	1K-COURTROOM2
Time	Speaker	Note	
<u>09:43:49 AM</u>	J	Roll call	
<u>09:58:11 AM</u>	J	Darol Anderson FTA	
<u>09:58:16 AM</u>		CR14-22653	
<u>09:58:19 AM</u>		Arraignment First appearance warrant was issued in Dec	
<u>09:58:32 AM</u>		This was set anyway. Leave warrant outstanding.	
<u>09:58:39 AM</u>	end		

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ORIGINAL

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Case No. CR-2014-00203-11:12

Plaintiff,

CLERK DISTRICT COURT

VS

RECEIVED
DEPUTY
DEC 17 2014

DAROL KEITH ANDERSON

D.O.B.: 01/13/1970

S.S.N.: XXX-XX-8448

WARRANTS DEPARTMENT

Defendant.

WARRANT OF ARREST

Agency Case: 14C29588

STATE OF IDAHO,

:Ss.

County of Kootenai.

STATE OF IDAHO TO: Any Sheriff, Constable, Marshal or Policeman of the State of Idaho: A complaint and/or by way of a uniform citation/report number 14C29588 on oath having been laid before me by Detective J. Schmitz and it appearing that there is probable cause to believe that the crime(s) of: **COUNT I, DOMESTIC BATTERY** a Felony, Idaho Code §18-903, 18-918(2), **COUNT II, AGGRAVATED ASSAULT** a Felony, Idaho Code §18-901, 18-905, and **COUNT III, DOMESTIC BATTERY** a Misdemeanor, Idaho Code §18-903, 18-918(3)(b); committed in Kootenai County, Idaho, and accusing, **DAROL KEITH ANDERSON** thereof.

YOU ARE THEREFORE COMMANDED forthwith to arrest the above-named defendant, in the daytime or the nighttime, and bring him before me at my office in Kootenai County, Idaho, or, in the case of my absence or inability to act, before the nearest or most accessible magistrate in the County.

BAIL, is fixed at \$ 10,000⁰⁰

DATED at 10 o'clock A m. at my office in Kootenai County, Idaho, this 17th day of Dec., A. D., 20 14.

[Signature]
Magistrate, District Court

WARRANT OF ARREST

Page 1 of 2



Jan. 15. 2015 2:57PM kootenai co warrants

No. 1795 P. 2

BARRY MCHUGH
Kootenai County Prosecuting Attorney
501 N. Government Way/P.O. Box 9000
Coeur d'Alene, ID 83816-9000
Telephone Number: (208) 446-1800
Fax Number: (208) 446-1833

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,

vs.

DAROL KEITH ANDERSON
DOB [REDACTED]
SSN [REDACTED]
Defendant.

Case No. CR-F14-22653

CRIMINAL COMPLAINT

Agency Case: 14C29588

Det. J. Schmitz, appeared personally before me, and being first
duly sworn on oath, that the above named defendant did commit the crime(s) of: **COUNT I,**
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COUNT I

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the
County of Kootenai, State of Idaho, did willfully and unlawfully use force and/or violence upon
the person of Erica Messerly, and by committing said battery, did inflict a traumatic injury upon

Mitchell

Jan. 15. 2015 2:58PM kootenai co warrants

No. 1795 P. 3

the person of Erica Messerly, to-wit: a cuts and/or bruises, and where Erica Messerly and the Defendant are have a dating relationship and/or are household members;

COUNT II

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by act and/or word to do violence upon the person of Erica Messerly, with a deadly weapon or instrument, to wit: a knife, which created a well-founded fear in Erica Messerly that such violence was imminent;

COUNT III

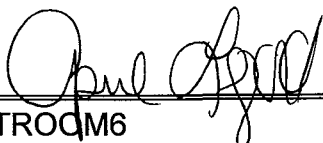
That the Defendant, **DAROL KEITH ANDERSON**, on or about September 7, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Erica Messerly, where Erica Messerly and the Defendant are have a dating relationship and/or are household members, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the people of the State of Idaho. Said complainant therefore prays for a Warrant to be issued and for proceedings according to law.

DATED this 12 day of December, 2014.

151
COMPLAINANT

2014. SUBSCRIBED AND SWORN to before me this 12 day of December.

James D. Stow
James D. Stow
MAGISTRATE

Description	CR 2014-22653 Anderson, Darol 20150120 First Appearance Judge Peterson Clerk April Legard Def Rights 		
Date	1/20/2015	Location	1K-COURTROOM6
Time	Speaker	Note	
<u>03:09:40 PM</u>	Judge Peterson	Calls Case Def Present In Custody Via Video PA Present - Mr Jackson	
<u>03:09:56 PM</u>	J	Domestic Battery - Felony Aggravated Assault - Felony Domestic Battery - Misdemeanor Reviews Charges	
<u>03:13:09 PM</u>	Def	Comments - Reviews Relationship With Victim Reviews Case History	
<u>03:15:31 PM</u>		Understands Charges - Domestic Battery	
<u>03:15:38 PM</u>	J	Reviews Penalties	
<u>03:15:45 PM</u>	Def	Understands Penalties	
<u>03:18:02 PM</u>		Reviews Prior History with Courts- Has not Missed Court Dates - Request OR Release	
<u>03:18:45 PM</u>	J	Reviews Penalties - Aggravated Assault	
<u>03:19:09 PM</u>	Def	Understands Penalties	
<u>03:19:15 PM</u>	PA	Request No Contact Order Issued	
<u>03:19:40 PM</u>	J	Issued NCO Reviews NCO Conditions	
<u>03:19:55 PM</u>	Def	Confirms Judge Magee has Issued NCO	
<u>03:20:08 PM</u>		Understands NCO Conditions	
<u>03:21:40 PM</u>		Request Counsel	
<u>03:21:46 PM</u>	J	Appoint Public Defender	
<u>03:22:11 PM</u>	PA	Request Increase - 35k Bond Reviews Defendant History Reviews Case History	
<u>03:22:26 PM</u>	Def	Reviews History - Confirms Has Turned in For Warrants	
<u>03:27:59 PM</u>	J	Request for OR Denied Reviews Complaint \$20k Bond Set	
<u>03:30:46 PM</u>		PH to be set within 14 days	
<u>03:30:55 PM</u>	Def	Request to Plea Guilty	

<u>03:31:06 PM</u>	J	Reviews PH Process
<u>03:31:11 PM</u>	End	

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MUST BE COMPLETED
TO BE CONSIDERED

Filed 1/20 AT 11:20A m.
CLERK OF THE DISTRICT COURT

BY [Signature] DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

APPLICATION FOR:

Darol Anderson
☒ DEFENDANT ☐ JUVENILE ☐ CHILD ☐ PARENT

DOB [REDACTED]

BY _____

PARENT or GUARDIAN OF MINOR

DOB _____

CASE NO. 0214-22653

FINANCIAL STATEMENT AND ORDER

NOTE: If this application is being made on behalf of a minor, please answer the following questions as they apply to his/her parents or legal guardian. Include information for you and your spouse.

I, the above named defendant (or the parent(s) on behalf of a minor), being first duly sworn on oath, depose and say in support of my request for court appointed counsel:

My current mailing address is: _____

Street or P.O. Box

City

State

Zip Code

My current telephone number or message phone is: 208 682-0942

Crimes Charged: AGGRAVATED BATTERY & DOMESTIC VIOLENCE

I request the Court appoint counsel at county expense; and I agree to reimburse the county for the cost of said defense, in the sum and upon the terms as the Court may order.

BELOW IS A TRUE AND CORRECT STATEMENT OF MY FINANCIAL CONDITION:

1. EMPLOYMENT:

A. Employed: yes ☒ no ☐

B. Spouse Employed: yes ☒ no ☐

C. If not employed, or self-employed, last date of employment 2014

D. My employer is: _____

Address: _____

2. HOUSEHOLD INCOME MONTHLY (Include income of spouse):

Wages before deductions \$ 0

Less Deductions \$ 0

Net Monthly Wages \$ 0

Other income: (Specify: Child Support, S.S., V.S., A.D.C.,
Food Stamps, Etc.)

0 \$ 0

3. HOUSEHOLD EXPENSES MONTHLY:

Rent or Mortgage Payment \$ 0

Utilities \$ 0

Clothing \$ 0

Transportation \$ 0

School \$ 0

Food \$ 0

Child Care \$ 0

Recreation \$ 0

Medical \$ 0

Insurance \$ 0

Other (Specify) \$ 0

3. HOUSEHOLD EXPENSES MONTHLY: (cont.)

DEBTS: Creditor several
Creditor _____
Creditor _____

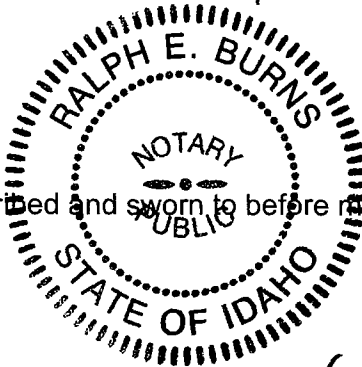
Total \$ 25000 \$ 0 per mo
Total \$ _____ \$ _____ per mo
Total \$ _____ \$ _____ per mo

4. ASSETS:

A. I (we) have cash on hand or in banks \$ 0
B. I (we) own personal property valued at \$ 0
C. I (we) own vehicle(s) valued at \$ 7,000
D. I (we) own real property valued at \$ 0
E. I (we) own stocks, bonds, securities, or interest therein \$ 0

5. THE FOLLOWING ALSO AFFECTS MY FINANCIAL CONDITION (Specify): _____

6. DEPENDENTS: 1 self 1 spouse 0 children 1 other (specify) _____
(number)



Subscribed and sworn to before me this 20 day of January, 2015.

APPLICANT

NOTARY PUBLIC/CLERK/JUDGE

The above named X defendant parent guardian appeared before the court on the aforesaid charge and requested the aid of counsel. The court having considered the foregoing, and having personally examined the applicant; X **ORDERS** **DENIES** the appointment of the service of counsel.

The applicant is ordered to pay \$ _____ monthly beginning _____, 20____ for the cost of appointed counsel. Payments are to continue until

[] notified by the court that no further amount is due.
[] the sum of \$ _____ has been paid.

THE APPLICANT IS ORDERED TO PAY REIMBURSEMENT FOR THE COST OF APPOINTED COUNSEL AT THE CONCLUSION OF THE CASE; THIS AMOUNT MAY BE IN ADDITION TO ANY SUMS ORDERED ABOVE.

ENTERED this 20 day of Jan, 2015.

JUDGE

Custody Status: X In _____ Out

Copies to:

[] Prosecuting Attorney JD
[] Public Defender JD

Bond \$ 20,000

Date

Deputy Clerk

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO Plaintiff v. <u>Darol Anderson</u> Defendant	CASE NO. CR- <u>14-22653</u> ORDER SETTING BAIL or RELEASE ON OWN RECOGNIZANCE and CONDITIONS
---	---

The above case having come before the Court on the below date and the Court having considered the factors in I.C.R. 46, now therefore,

IT IS HEREBY ORDERED that bail be set in the amount of \$ 25,000
and the following are established as the conditions of release:

THE DEFENDANT SHALL:

- ☒ Commit no new criminal offenses greater than an infraction (a finding of probable cause on a subsequent offense is sufficient to revoke bail);
- ☒ Sign waiver of extradition and file with the Court;
- ☒ Make all court appearances timely;
- ☒ **Do NOT** consume alcohol or controlled substances;
- ☒ Promptly notify the Court and defense counsel of any change of address;
- ☒ Maintain regular contact with defense counsel;
- ☒ **Do NOT** drive, operate or be in physical control of a motor vehicle without a valid license and insurance;
- ☐ Obtain a Substance Abuse/Batterer's Evaluation from an approved evaluator by: _____
- ☐ Submit to: ☐ EtG ☐ Drug ☐ Both EtG & Drug urinalysis testing _____ times monthly through:
[] Avertest (address/phone below) [] Absolute (address/phone below)
[] Other _____. Results to be provided to the
Prosecuting Attorney's office, Public Defender/Defense Attorney _____, ☐ Court
- ☒ Other: Comply w/NCO.

Defendant has acknowledged these conditions in open court, and is advised that a violation of any term may result in the defendant being returned to jail.

Copies sent 1/20/15 To:

- ☒ Prosecutor [] in court [] interoffice
☒ Defense Counsel [] in court [] interoffice
☐ Defendant [] in court

☐ Jail FAX 446-1407

☐ Avertest FAX: (208) 904-0785, 500 N Government Way, Suite 100, CD'A, ID, Ph: (208) 904-0926

☐ Absolute FAX: (208) 758-0401, 5433 N Government Way, Suite B, CD'A, ID, Ph: (208) 758-0051

☐ Probation Department _____

☐ Other _____

Paul Agard
Deputy Clerk

Date: 1/20/15

Judge _____

No. _____

BARRY McHUGH
Prosecuting Attorney
501 Government Way/Box 9000
Coeur d'Alene, ID 83816-9000
Telephone: (208) 446-1800
Facsimile: (208) 446-1833

STATE OF IDAHO
COUNTY OF KOOTENAI } ss
FILED:

2015 JAN 29 PM 3:15

CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,)	
	)	Case No. CR-2014-22653
)	
Plaintiff,)	
	)	MOTION TO
vs.	)	SHORTEN TIME
)	
DAROL KEITH ANDERSON,)	
)	
Defendant.)	
_____)	

COMES NOW, BARRY MCHUGH, Prosecuting Attorney for Kootenai County, Idaho, and hereby moves the Court for an order to shorten the time for notice requirement to hear the State's MOTION TO AMEND CRIMINAL COMPLAINT.

This motion is made based on the fact that the Defendant is currently set for Preliminary Status and Preliminary hearings are currently set for the 3rd day of February, 2015.

DATED this 28th day of January, 2015.



EILEEN MCGOVERN
Deputy Prosecuting Attorney

MOTION AND ORDER TO SHORTEN TIME

CERTIFICATE OF MAILING

I hereby certify that on the 28th day of January, 2015, a true and correct copy of the foregoing was caused to be delivered to:

PUBLIC DEFENDERS OFFICE
emailed



MOTION AND ORDER TO SHORTEN TIME

BARRY McHUGH
Prosecuting Attorney
501 Government Way/Box 9000
Coeur d'Alene, ID 83816-9000
Telephone: (208) 446-1800
Facsimile: (208) 446-1833

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: ss

2015 JAN 29 PM 3: 15
CLERK DISTRICT COURT
Amanda Mc
DEPUTY *ps*

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,)	
	)	CASE NO. CR-2014-22653
Plaintiff,)	
	)	MOTION TO AMEND
vs.	)	THE COMPLAINT
)	
DAROL KEITH ANDERSON,)	
)	
Defendant.)	
_____)	

COMES NOW, BARRY MCHUGH, Prosecuting Attorney for Kootenai County, Idaho, and
hereby moves this Court to amend the complaint in this matter. The State moves to amend the
Complaint to reflect the facts articulated in the original police reports, already disclosed to defendant.

DATED this 28th day of January, 2015.

Eileen McGovern

EILEEN MCGOVERN
Deputy Prosecuting Attorney

Certificate of Mailing

I hereby certify that on the 29th day of January, 2015, a true copy of the foregoing MOTION
AND ORDER TO AMEND CRIMINAL COMPLAINT was caused to be delivered to:

PUBLIC DEFENDERS
emailed



Description	CR 2014-22653 Anderson, Darol 20150203 Preliminary Hearing Status Conference Judge Peterson Clerk Cassie Poole		
Date	2/3/2015	Location	1K-COURTROOM12
Time	Speaker	Note	
<u>08:30:11 AM</u>	Judge Peterson	Defendant present in custody with Ms. Brooks, Ms. McGovern for the state Also motion to amend	
<u>08:30:32 AM</u>	Brooks, Lynn	Have seen motion, oppose motion	
<u>08:30:37 AM</u>	McGovern, Eileen	The state is seeking to amend complaint to add count of strangulation, the basis is that the facts are in police reports which were disclosed to defense, not new information or facts, intend to prove that charge at prelim. In courts discretion to approve amendment, facts are alleged to support amendment, no prejudice to defense	
<u>08:31:32 AM</u>	Brooks, Lynn	Basis of objection I think adding additional charge would constitute double jeopardy therefore unconstitutional	
<u>08:32:00 AM</u>		Has not been charged with that charge prior, but to add that charge with charges already alleged, felony domestic battery, felony aggravated assault to add attempted strangulation would constitute double jeopardy	
<u>08:32:28 AM</u>	Judge Peterson	Not double jeopardy, potentially merger Permit amendment of complaint Now added count of attempted strangulation a felony	
<u>08:32:47 AM</u>	Brooks, Lynn	Leaving set for prelim	
<u>08:32:52 AM</u>	McGovern, Eileen	3 witnesses	
<u>08:32:58 AM</u>	Brooks, Lynn	No witnesses	
<u>08:33:05 AM</u>	Judge Peterson	Leave set this afternoon at 1:30	
<u>08:33:47 AM</u>	End		

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STATE OF IDAHO } ss
COUNTY OF KOOTENAI
FILED: 2-3-15
AT 8:37 O'CLOCK AM
CLERK OF THE DISTRICT COURT
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO

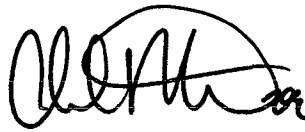
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,)	
	)	Case No. CR-2014-22653
)	
Plaintiff,)	
	)	ORDER TO
vs.	)	SHORTEN TIME
)	
DAROL KEITH ANDERSON,)	
)	
Defendant.)	
_____)	

The Court having before it the above State's motion, and good cause appearing now,
therefore,

IT IS HEREBY ORDERED that the time required for the filing of the States motion be
shortened.

ENTERED this 3 day of ^{Feb} ~~January~~, 2015.



JUDGE CLARK PETERSON

MOTION AND ORDER TO SHORTEN TIME

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of Feb, 2015, copies of the foregoing document(s) were mailed; postage prepaid, or sent by facsimile or inter-office mail to:

X Deputy Prosecuting Attorney for Kootenai County FAX 208-446-1833
2 Defense Counsel Kootenai County Public Defender FAX 208-446-1701
Defense Counsel FAX _____
Defendant _____
Kootenai County Sheriff's Office KCSD jailsgts@kcgov.us
Idaho Probation & Parole – Dist1@idoc.idaho.gov
Idaho Department of Correction FAX 208-327-7445
CCD Sentencing Team – CCDSentencingTeam@idoc.idaho.gov
Idaho Department of Transportation FAX 208-334-8739
Community Service Interoffice Mail or FAX 208-446-1193
Auditor nvigil@kcgov.us
BCI (Bureau of Criminal Investigation) FAX 208-884-7193
Kootenai County Law Library/Transcription FAX 208-446-1187
Central Records CentralRecords@idoc.idaho.gov
ISP Forensics Lab FAX 208-209-8716
Idaho State Industrial Commission, FAX: 208-334-5145

JIM BRANNON, CHIEF DEPUTY
CLERK OF THE DISTRICT COURT

By: _____

Deputy Clerk

MOTION AND ORDER TO SHORTEN TIME

STATE OF IDAHO } SS
COUNTY OF KOOTENAI
FILED: 2-3-15
AT 8:37 O'CLOCK A M
CLERK, DISTRICT COURT
DEPUTY

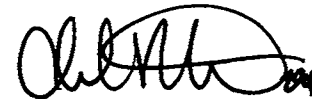
IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,)	
	)	CASE NO. CR-2014-22653
Plaintiff,)	
	)	ORDER TO AMEND
vs.	)	THE COMPLAINT
)	
DAROL KEITH ANDERSON,)	
)	
Defendant.)	
_____)	

Based upon the foregoing Motion and good cause appearing, therefore,

IT IS HEREBY ORDERED that the COMPLAINT is amended complaint as filed.

ENTERED this 3 day of ^{Feb}~~January~~, 2015.



JUDGE

3rd

Feb.

to

to: *4127*

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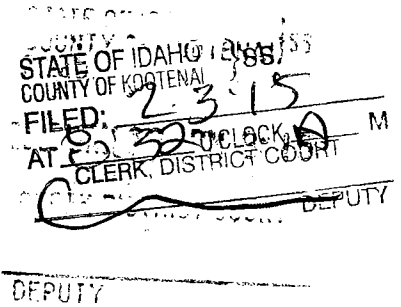
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Deputy Clerk

ORIGINAL

BARRY MCHUGH
Kootenai County Prosecuting Attorney
501 N. Government Way/P.O. Box 9000
Coeur d'Alene, ID 83816-9000
Telephone Number: (208) 446-1800
Fax Number: (208) 446-1833



IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,

vs.

DAROL KEITH ANDERSON,
DOB: [REDACTED]
SSN: [REDACTED]
Defendant.

Case No. CR-F14-22653

**AMENDED CRIMINAL
COMPLAINT**

Agency Case: 14C29588 C.D.P.D.

COMES NOW, BARRY MCHUGH, Prosecuting Attorney and amends the complaint as follows: complains that the above named defendant did commit the crime of **COUNT I, DOMESTIC BATTERY** a Felony, Idaho Code §18-903, 18-918(2), **COUNT II, AGGRAVATED ASSAULT** a Felony, Idaho Code §18-901, 18-905, **COUNT III, ATTEMPTED STRANGULATION** a Felony, Idaho Code §18-923, and **COUNT IV, DOMESTIC BATTERY** a Misdemeanor, Idaho Code §18-903, 18-918(3)(b), committed as follows:

COUNT I

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Erica Messerly, and by committing said battery, did inflict a traumatic injury upon

the person of Erica Messerly, to-wit: a cuts and/or bruises, and where Erica Messerly and the Defendant are have a dating relationship and/or are household members;

COUNT II

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by act and/or word to do violence upon the person of Erica Messerly, with a deadly weapon or instrument, to wit: a knife, which created a well-founded fear in Erica Messerly that such violence was imminent;

COUNT III

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully choke or attempt to strangle the person of ERICA MESSERLY by squeezing her neck with his hand and/or fingers, and where ERICA MESSERLY and DAROL KEITH ANDERSON, the defendant have or had a dating relationship and/or are household members; and

COUNT IV

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 7, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Erica Messerly, where Erica Messerly and the Defendant are have a dating relationship and/or are household members, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the people of the State of Idaho. Said complainant therefore prays for proceedings according to law.

DATED this 28TH day of January, 2015.



EILEEN J. McGOVERN
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that, on the 29th day of January, 2015, I caused the foregoing to be transmitted as followed:

PUBLIC DEFENDERS (EMAILED)



Description	CR 2014-22653 Anderson, Darol 20150203 Preliminary Hearing Judge Peterson Clerk Cassie Poole		
Date	2/3/2015	Location	1K-COURTROOM7
Time	Speaker	Note	
<u>02:01:42 PM</u>	Judge Peterson	Defendant present in custody with Ms. Brooks, Ms. Gardner for the state Court heard prelim status this morning permitted amendment of complaint	
<u>02:02:27 PM</u>	Brooks, Lynn	Move to exclude witnesses	
<u>02:02:33 PM</u>	Gardner, Donna	No objection	
<u>02:02:35 PM</u>	Judge Peterson	Exclude witnesses	
<u>02:02:53 PM</u>	Anderson, Darol	I want Melissa to be witness, she did not show up but I want her to be called as witness in trial.	
<u>02:03:05 PM</u>	Judge Peterson	This is not trial this is preliminary hearing	
<u>02:04:13 PM</u>	Brooks, Lynn	No preliminary manners	
<u>02:04:20 PM</u>	Gardner, Donna	Calls witness	
<u>02:04:23 PM</u>	Clerk	Swears witness	
<u>02:04:56 PM</u>	Gardner, Donna	DX	
<u>02:05:05 PM</u>	Messerly, Erica	Erica Messerly. I do know Darol Anderson. He is my husband. I have been legal married for over a year. Married in Idaho. Have not been residing together. 9/6/14 were residing with him. We were living in cda 1410 E. Stiner Kootenai county Idaho. Mr. Anderson is in court wearing red jumpsuit seated on left side at the end.	
<u>02:06:11 PM</u>		On 9/5 I kicked Mr. Anderson off the bed, he jumped on top of me started hitting and choking me.	
<u>02:06:36 PM</u>	Judge Peterson	Hold on - Admonish Mr. Anderson heard you call witness liar and to tell the truth, that is inappropriate We have rules on how these hearings have to proceed, you do not get to make editorial comments, if continue to do that could be further warned held in contempt or even remove you from this hearing, I don't want to have to do those things, if need break to communicate with your counsel let her know and we can take a	

		break.
<u>02:07:42 PM</u>	Gardner, Donna	Continues DX
<u>02:07:46 PM</u>	Messerly, Erica	He got on top of me on the bed. He was punching closed fist head and face, maybe on top of my head. He punched me like I was a man, he hit me hard. He was choking me. Shows how was being choked. Thumbs were in the front of my throat. He was applying pressure to throat. I was having a little trouble breathing. I was trying to move, I jumped up off the bed he jumped up I was in front of dresser he swung and hit me again, with closed fist.
<u>02:09:35 PM</u>		He hit me
<u>02:09:39 PM</u>	Judge Peterson	Hold on, you need to not make faces at her either.
<u>02:09:49 PM</u>	Anderson, Darol	I am just smiling
<u>02:09:52 PM</u>	Judge Peterson	Hearings need to be orderly, one of those reasons is to protect your rights
<u>02:10:02 PM</u>	Anderson, Darol	I apologize
<u>02:10:05 PM</u>	Judge Peterson	Would be detriment to you if I have to remove you, you would not be able to consult lawyer, I am not going to have many other choices, this will serve as final warning further disruptions further or other, can result in contempt or being removed from hearing.
<u>02:10:42 PM</u>	Anderson, Darol	Understand
<u>02:10:48 PM</u>	Messerly, Erica	Punched me closed fist in the face, one time, then I ran down the stairs, he would not let me leave, I threw his phone in the toilet, I went down stairs he followed me down stairs I was yelling and screaming he punched me so hard he knocked me against the wall.
<u>02:11:57 PM</u>	Gardner, Donna	Take a break for a minute.
<u>02:12:06 PM</u>	Judge Peterson	Be at ease while testify, know stressful.
<u>02:12:14 PM</u>	Break	
<u>02:26:28 PM</u>	Judge Peterson	Back on the record Parties present with counsel
<u>02:26:48 PM</u>	Gardner, Donna	Continues DX
<u>02:27:12 PM</u>		Mr. Anderson punched me in the face, eye. I was knocked out, he put me against the wall, when came to he was holding me saying

	Messerly, Erica	oh my gosh Erica wake up wake up. I was crouched down on the floor. This was in the living room by the door, I was trying to get out. I got up then I don't know exactly what happened, he was sitting by the door in the bathroom, I got out and ran to the neighbors house I told them he was hitting me I stayed there for a while
<u>02:28:47 PM</u>	Brooks, Lynn	Object narrative
<u>02:28:50 PM</u>	Judge Peterson	Sustain
<u>02:28:52 PM</u>	Messerly, Erica	I did have contact with Mr. Anderson on the way back to my house. When I saw him outside I was coming up the porch, the neighbor guy was with me he pulled me by the hair and was pulling me inside and I was screaming. The neighbor was Amy's boyfriend. I don't know his name.
<u>02:29:41 PM</u>		I was coming back to my house to grab keys to house and I thought Darol was gone. I needed keys so I could lock the door so he could not get back in he house. I thought he had left. He dragged me by the hair and pulled me in the house. We did not have electricity I was sitting on the love seat he told me to turn on the flash light, he thought I was sleeping with the neighbor, he had a pole in his hand said turn on flash light. When he swung it he swung it in my direction, he was right by my face and he decided to jab me in the side. I thought he was going to hit me in the face.
<u>02:31:23 PM</u>		When he swung it towards me I moved away and crouched down and he jabbed me in the side with the pole. I crouched down because I thought he was going to hit me with the pole. I had not seen the pole before. I don't know where he got it from.
<u>02:32:15 PM</u>		He jabbed me in the left side below ribs, there was a bruise there. After jabbed me with the pole he wrapped cord around his neck and told me he was going to kill himself.
<u>02:33:05 PM</u>	Brooks, Lynn	Objection
<u>02:33:06 PM</u>	Judge Peterson	Sustain
<u>02:33:13 PM</u>	Messerly, Erica	He did bite me. After he jabbed me in the side, he grabbed cord wrapped it around his neck, went to the kitchen grabbed a knife. I don want to do this. He came behind me stuck the knife to my neck and said he was going to kill me. It was a steak knife. It left a cut on my neck. I still have a scar. Shows scar to the court.
<u>02:34:48 PM</u>		After the cut my neck he threw the knife down and threatened to kill himself again. He put cord around his neck again. After he threatened to kill himself again I left. He did bite me. He bit me when he had his hands around my neck. That was on the bed.

		When we were in the bed had his hand around throat.
<u>02:36:44 PM</u>		I did try to escape, he went into the garage I went out the front door ran to Amy's house again she gave me ride to where my daughter faith was. I did have injuries. I have knots all over my head, caused by him punching me in the head on the bed. Then he punched me in the face, had injury on right cheek. I had cut on bridge on nose caused by him hitting me.
<u>02:38:15 PM</u>		I had bruises on both sides of neck from him strangling me. I don't recall injuries on shoulders. I had bite on left hand. On wrist, on arm.
<u>02:39:42 PM</u>	Brooks, Lynn	CX
<u>02:39:44 PM</u>	Messerly, Erica	Incident occurred at night, from about 10 pm until around 2-3 in the morning. It did not take 5 hrs but was a long time that we were in there. This is hard. I don't want to answer question. I don't know I know it was at night. I kicked Mr. Anderson in the back while we were in bed. I believed he was sleeping with another woman. I saw photos or video on Mr. Anderson's phone that upset me that is why I threw it in the toilet. Mr. Anderson held me on the bed. My arms were free.
<u>02:42:21 PM</u>		I did strike him trying to get away while he was on top of me. I hit him on the head, with closed fist. I hit him on the head a couple times. 2 times. He got off the top of me, I was wiggling around, he got off and I stood up.
<u>02:43:11 PM</u>		I ran downstairs and he followed me downstairs. I told the police Mr. Anderson ran down stairs and I followed him. I don't know every detail about what happened, I know what he did to me was wrong that is why I am here, I started fight but he should not have done what he did to me. He beat me up.
<u>02:44:22 PM</u>	Judge Peterson	Do need break
<u>02:44:24 PM</u>	Gardner, Donna	I think so
<u>02:44:26 PM</u>	Messerly, Erica	What does it manner if I followed him or he followed me
<u>02:44:44 PM</u>	Judge Peterson	We have to go step by step, take a break
<u>02:44:50 PM</u>	Break	
<u>02:58:02 PM</u>	Judge Peterson	Back on the record Same parties present Witness back on the stand
<u>02:59:27 PM</u>	Brooks, Lynn	Continues CX

<u>02:59:34 PM</u>	Messerly, Erica	I ran to the neighbors house to get away from Darol. I went back to the house with neighbor, I thought Mr. Anderson had left. Darol threw the keys in the grass and I needed back in the house. I went to the neighbors because I was afraid of Mr. Anderson, I went back because I thought he was gone. When I went back to the house with the neighbor and he walked me up on the porch, I thought the door was locked I said oh my gosh the door isn't locked. I just told you Mr. Anderson threw my keys in the grass.
<u>03:01:57 PM</u>		I left my house because he was hurting me, I don't remember if it was the first or 2nd time all I can remember is the greater details of what happened that night. I don't remember when I saw him throw the keys in the grass.
<u>03:03:03 PM</u>		I went to the neighbors twice that night. The first time I saw the pole that night was when Mr. Anderson had it in his hands
<u>03:03:45 PM</u>	Gardner, Donna	Objection asked and answered
<u>03:03:46 PM</u>	Judge Peterson	Overrule
<u>03:03:48 PM</u>	Messerly, Erica	I saw it after came back to the house, the guy walked me up to the house, the guy was walking away, Darol grabbed my hair pulled me inside I went to the couch he told me to turn flash light on, he had pole looked like baseball bat, he swung the pole and jabbed me in the left side.
<u>03:04:45 PM</u>		The flashlight was sitting on the couch. The flashlight is black. I don't know what kind of batteries it takes, it was a small flashlight. I don't know the length of flashlight. Indicates about 10-12 inches.
<u>03:06:28 PM</u>		I picked up the flashlight when sat down on the couch, that was right after neighbor left. Mr. Anderson said turn the flash light on bitch. I do not remember ever detail, I remember knife, pole, everything happened fast, it was the scariest thing I have been threw in my life.
<u>03:07:53 PM</u>		It was a long steak knife. It was about 12 inches, it was long. It was bigger than a butter knife. It had straight edge. The handle was brown wood.
<u>03:08:57 PM</u>		Mr. Anderson went into the kitchen and came back with knife. I was on the couch. I was in the living room, I was not near the front door, I was close to the sliding glass back door with balcony. When Mr. Anderson went to the kitchen I did not try to leave because Mr. Anderson would have attacked me. Mr. Anderson threw the knife down on the floor in the front room. When police were there, metal pipe and knife were not found but Mr. Anderson went there the next day. Mr. Anderson put cord around his neck, I did not tell the police about it.
<u>03:11:13 PM</u>		Was not significant fact at the time. At the day of the incident I did not know Amy's name, my kids were hanging out with her kids. I

		did not know Amy's name at the time this happened. Amy took me to where my daughter Faith was, Melissa Watts house. I was not staying at Melissa's house at the time, my daughter was there.
<u>03:12:49 PM</u>		Went to the neighbors the 2nd time to get ride to where my daughter faith was.
<u>03:13:03 PM</u>	Gardner, Donna	Objection
<u>03:13:04 PM</u>	Judge Peterson	Sustain
<u>03:13:25 PM</u>	Messerly, Erica	I did not call the police because I did not want to get him in trouble. Went to the neighbors house to get away from Darol. I felt that was the only place to go
<u>03:14:42 PM</u>	Gardner, Donna	Objection
<u>03:14:44 PM</u>	Brooks, Lynn	Purpose of impeachment
<u>03:14:50 PM</u>	Judge Peterson	Sustain
<u>03:15:46 PM</u>	Gardner, Donna	No re direct
<u>03:16:16 PM</u>		No further witnesses, before rest would like to make a motion Amend complaint to add 2nd count of aggravated assault. Think based on evidence there is another count with the metal pipe he swung towards her face.
<u>03:17:20 PM</u>	Brooks, Lynn	I would object to amendment, both allegations are part of single transaction of events
<u>03:17:34 PM</u>	Judge Peterson	Think attempt to strike with pole is separate and distinct from the knife, permit amendment of complaint, don't know if will bind over Count 5 will read identical to count 2 but will read to wit a metal pole
<u>03:18:09 PM</u>	Gardner, Donna	That is request
<u>03:19:17 PM</u>	Brooks, Lynn	Discussed right to testify decided to not testify No witnesses
<u>03:19:27 PM</u>		Count 1 felony domestic battery evidence quite clear the parties are household members, married and in house as husband and wife as of 9/6/14, in this batter on Ms. Messerly Mr. Anderson inflicted traumatic injury, she talked about cuts and bruises, she talked about cut from knife, punch to bridge of nose and several bruises, on the 2nd count the aggravated assault with deadly weapon the knife that created fear that violence was imminent put knife to throat and cut her threatening to kill her, attempted

	Gardner, Donna	strangulation goes to the beginning of series of events, had her on the bed straddling her pressing thumbs into front of neck said she was able to breath a little, finally adding count 5 aggravated assault with metal pole, she described him swinging pole in her direction of there face to the point she cringed and ducked down to try to avoid it she thought he was going to hit her in the head, created fear violence was imminent, he poked her in the side with metal pole, she had never seen it before and has not seen it since, but was weighty enough to leave bruise on side.
<u>03:22:38 PM</u>		Ask bind over on all felony counts
<u>03:22:44 PM</u>	Brooks, Lynn	This scenario started with Ms. Messerly undisputably committing battery on Mr. Anderson then allegedly there were all these further acts committed by him against her, deficits in credibility allegations about things with knife and pole with no one finding alleged knife or pole, interesting she is alleging different instruments but those things were not found.
<u>03:23:46 PM</u>		I would also argue to the court that this pipe or pole would not constitute deadly weapon for purposes of aggravated assault, number of inconsistencies, things said to police that were different, changing story submit to court indicates fabrication, did not want to get Mr. Anderson in trouble but perpetrated all these acts upon her. Insufficient evidence to find PC
<u>03:24:49 PM</u>	Judge Peterson	Guided by rule 5.1 Multiple charges, mindful of elements I think issue of weighing credibility is in the end up to jury, court find sufficiently credible here, finding credible believe testimony she provided, in the end find there is sufficient evidence on every element of ever charge, and sufficient evidence to believe he is guilty of offenses, that is on amended complaint plus added 5th charge
<u>03:26:48 PM</u>		Assigned to Judge Mitchell Further proceedings in district court.
<u>03:27:57 PM</u>	End	

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STATE OF IDAHO

VS.

DAROL KEITH ANDERSON

DOB: [REDACTED]

FILED 2-3-15 AT 3:27 P.m.
CLERK OF THE DISTRICT COURT

BY [Signature], DEPUTY

FELONY CASE # CR-2014-0022653

ORDER

☒ HOLDING
☐ DISMISSING CHARGE(S)

CHARGE(S): COUNT 1 - BATTERY-DOMESTIC VIOLENCE - I18-918(3)(B) F

COUNT 2 - ASSAULT-AGGRAVATED - I18-905

COUNT 4 - BATTERY-DOMESTIC VIOLENCE WITHOUT TRAUMATIC INJURY AGAINST A HOUSEHOLD

MEMBER - I18-918(3)(B) M

ct 3 - Attempted Strangulation (F)
ct 5 - Aggravated Assault (F)

Amended to: _____

☐ Dismissed - insufficient evidence to hold defendant to answer charge(s). ☐ Bond exonerated. ☐ NCO Lifted.

(Specify dismissed charge(s) on above line, if other charges still pending)

☐ Preliminary hearing having been waived by the defendant on the above listed charge(s),

☒ Preliminary hearing having been held in the above entitled matter, and it appearing to me that the offense(s) set forth above has / have been committed, and there is sufficient cause to believe the named defendant is guilty thereof,

IT IS HEREBY ORDERED that the defendant is held to answer the above charge(s) and is bound over to District Court. The Prosecuting Attorney shall file an Information that includes all charges under this case number.

IT IS FURTHER ORDERED that the defendant be admitted to bail in the amount of \$_____ and is committed to the custody of the Kootenai County Sheriff pending the giving of such bail.

☐ Defendant was advised of the charges and potential penalties and of defendant's rights, and having waived his/her constitutional rights to: a) trial by jury; b) remain silent; and c) confront witnesses, thereafter pled guilty to the charge(s) contained in the Information filed by the Prosecuting Attorney.

IT IS FURTHER ORDERED that all pretrial motions in this case shall be filed not later than 42 days after the date of this order unless ordered otherwise. All such pretrial motions in this matter shall be accompanied by a brief in support of the motion, and a notice of hearing for a date scheduled through the Court.

THIS CASE IS ASSIGNED TO JUDGE

John T. Mitchell

ENTERED this 3 day of Feb., 20 15.

[Signature]

Judge

Copies sent 2, 3, 15 as follows:

☒ Prosecutor ☒ Defense Attorney ☒ Defendant ☒ TCA Office at fax 446-1224

☒ Assigned District Judge: ☒ Interoffice delivery ☐ faxed _____ ☒ Jail (if in custody at fax 446-1407) ☒ KCSO Records fax 446-1307 (re: NCO) #4216 4:31 pm

Deputy Clerk [Signature]


Order Holding Defendant/Dismissing Case

116

STATE OF IDAHO } SS
 COUNTY OF KOOTENAI }
 FILED:

J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

2015 FEB -5 PM 2: 02

CLERK DISTRICT COURT MM

 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAROL KEITH ANDERSON,

Defendant.

CASE NUMBER CR-14-22653


**MOTION FOR PREPARATION
 OF PRELIMINARY HEARING
 TRANSCRIPT**

COMES NOW, the above named defendant, by and through his attorney J. Lynn Brooks, and hereby moves the Court for an Order directing the clerk of the court to prepare and complete the transcript of the Preliminary Hearing held in the above-entitled matter on February 3, 2015, before the Honorable Clark Peterson. This motion is made on the grounds that the transcript of said hearing is necessary for defense counsel in order to prepare a defense on behalf of the defendant in this matter.

Counsel for the defendant further moves the Court to order that the costs necessary for the preparation and completion of the transcript be paid at no expense to the defense. This Motion is made on the grounds that the defendant was determined to be indigent by the above-entitled Court on January 20, 2015, and further, that his representation is provided for by the undersigned as a Conflict Public Defender.

00?

DATED this 5th day of February, 2015.



J. LYNN BROOKS
ATTORNEY FOR DEFENDANT

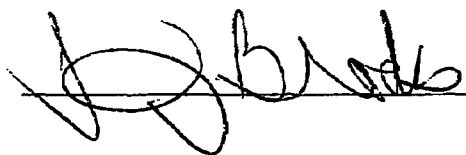
CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same by method indicated below on the 5th day of February, 2015, addressed to:

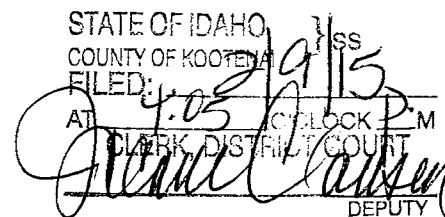
Kootenai County Prosecuting Attorney

X Via Fax 208-446-1833

____ Hand-Delivery



J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623



**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAROL KEITH ANDERSON,

Defendant.

CASE NUMBER CR-14-22653

**ORDER FOR PREPARATION OF
 PRELIMINARY HEARING TRANSCRIPT**

The Court having before it the foregoing Motion and good cause appearing, now, therefore,
 IT IS HEREBY ORDERED that the clerk of the court shall prepare and complete the
 transcript of the Preliminary Hearing held in the above-entitled matter on February 3, 2015.

IT IS FURTHER ORDERED that the costs necessary for the preparation and completion
 of said transcript shall be paid at county expense and at no expense to the defense.

IT IS FURTHER ORDERED that the transcript shall be complete and submitted to all
 parties to this action no later than the 9th day of March, 2015.

DATED this 9th day of February, 2015.


 JOHN T. MITCHELL
 DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 9 day of February, 2015, addressed to:

Transcript Department - Kootenai County Courthouse 446-1187 ✓

J. Lynn Brooks, Conflict Public Defender 665-0220 ✓

Kootenai County Prosecutor 446-1833 ✓

#24482

David Clausen

STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED:

ONLY ONE REQUEST PER KITE

CLERK DISTRICT COURT

ONLY ONE REQUEST PER NAME

NAME: Darol K Anderson

Date:

2. Schüler 15m

Pod

DEPUTY

Cell:

12

Name/Number:

549

Circle One:

Medical

Attorney/Court Contact

Haircut

Appeal

Complaint Request

Chaplain

Classification
Law Library

Explanation:

Explanation: I would like to - ASK for forgiveness for the Dis Respect to you & your Court - Feb 3, 2015. I understand there is Laws and Doe Process. Needs to Be Followed. And My Dis Respect to you & Your Court WAS out of Line, I Am Learning Acceptance, And Giving things over for there is A Reason for Everything Under the Sun. And some times we were Not Happy with things But Can't Change it. Thank God Bless

Inmate's Signature: _____

Receiving Deputy:

ID#

Date/Time

2/17/15 (JCC)

ACTION

Routed to:

JUNGE PETERSON

(to be filled in by Deputy receiving request form)

Answer: ☐ Approved ☐ Denied

Reason:

Case: F/4-7653

Responding Staff Signature:

ID#

Date _____

Copy to File

Copy to Inmate

Copy to File _____ Copy to Inmate _____
 Date PA Keith Anderson 10/31/04 13672
 CC PA-44-1033
PA-4 AM-1445-6220 #4504

55

JAIL SHR #307 Rev. 5/14

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2015 MAR 10 PM 1:23

CLERK DISTRICT COURT
Melissa J. Hill
DEPUTY

J. Lynn Brooks, Attorney at Law
Conflict Public Defender
P.O. Box 2931
Hayden, Idaho 83835
Telephone: (208) 665-0385
Fax: (208) 665-0220
brookslawcda@roadrunner.com
Bar Number: 3623

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAROL KEITH ANDERSON,

Defendant.

CASE NUMBER CR-14-22653

**MOTION FOR EVALUATION PURSUANT
TO I.C. §§ 18-210, 18-211**

COMES NOW, the above named Defendant, by and through his attorney, J. Lynn Brooks, Conflict Public Defender, and hereby moves the Court for an Order causing the Director of the Department of Health and Welfare to designate a licensed psychiatrist or psychologist to examine and report on the mental condition of the Defendant.

This Motion is based on Idaho Code §§ 18-210 and 18-211 and on the fact that there is reason to believe that the Defendant lacks the capacity to understand the proceedings against him and to assist in his own defense.

Counsel for the defendant further moves the Court to order that the evaluation be performed at no expense to the defendant. This is requested on the grounds that the defendant has previously been determined to be an indigent by the above-entitled Court under Chapter 8, Title 19, of the Idaho

MOTION FOR EVALUATION PURSUANT TO I.C. §§ 18-210, 18-211

Page 1

Code.

Defendant is currently in the custody of the Kootenai County Sheriff, and the undersigned requests the Court to order the Kootenai County Sheriff to transport Defendant to and from the facility where the examination is to take place, and to order the Kootenai County Sheriff to notify the facility of any known medical, behavioral, or security requirements of Defendant.

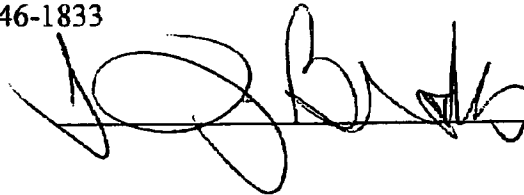
DATED this 10th day of March, 2015.


J. LYNN BROOKS
ATTORNEY FOR DEFENDANT

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 10th day of March, 2015, addressed to:

Kootenai County Prosecutor via fax to 446-1833



J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

STATE OF IDAHO } ss
 COUNTY OF KOOTENAI }
 FILED: 3/12/15
 AT 6:20 O'CLOCK P.M.
 CLERK, DISTRICT COURT
Thomas R. [Signature]
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAROL KEITH ANDERSON,

Defendant.

CASE NUMBER CR-14-22653

**ORDER FOR EVALUATION PURSUANT
 TO I.C. §§ 18-210, 18-211**

This matter having come before the Court, and good cause appearing; now, therefore

IT IS HEREBY ORDERED that that Department of Health and Welfare shall designate at least one qualified psychiatrist or licensed psychologist to examine and report upon the mental condition of the Defendant, DAROL KEITH ANDERSON, to assist counsel with defense or to understand the proceedings against pursuant to I.C. §§18-210 and 18-211, and for the State and this Court to better determine competency to stand trial in this matter pursuant to I.C. §18-212(2).

IT IS FURTHER ORDERED that the cost, if any, shall not be paid by the Defendant, but rather incurred by this Court. Upon completion of the examination, a report shall be submitted to the Court and shall include the following:

- a) A description of the nature of the examination;
- b) A diagnosis or evaluation of the mental condition of the Defendant;
- c) An opinion as to the Defendant's capacity to understand the proceedings against him and to assist in his own defense and/or to knowingly and intelligently enter into a plea of guilty to the charges against him.

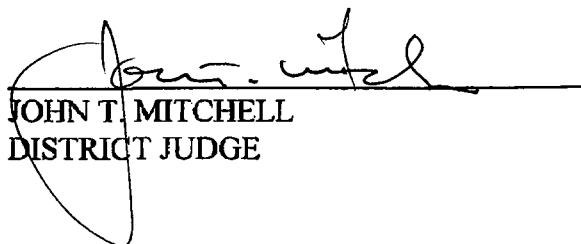
ORDER FOR EVALUATION PURSUANT TO I.C. §§ 18-210, 18-211

Page 1

IT IS FURTHER ORDERED that, if the examination cannot be conducted by reason of the unwillingness of the Defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the Defendant was the result of mental disease or defect.

IT IS FURTHER ORDERED that the report of examination shall be filed in triplicate with the Clerk of the Court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the Defendant.

DATED this 12th day of March, 2015.


JOHN T. MITCHELL
DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 12 day of March, 2015, addressed to:

J. Lynn Brooks, Defense Counsel, via fax to 665-0220 ✓

Kootenai County Prosecutor
_____ via fax to 446-1833 ✓

_____ interoffice mail

H+W - Eval fax

#5853

nicole 9:59A
bucard



1110

KOOTENAI COUNTY SHERIFF'S OFFICE
JAIL BUREAU
INMATE REQUEST FORM (KITE)

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:

2015 MAR 23 PM 3:26
MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

Inmate's Name: Darol Anderson

Date: 3-19-2015

Pod: DEPUTY

Cell: 2

Name/Number: 545

[Judge Mitchell]

Circle One:

Medical

Attorney/Court Contact

Haircut

Appeal

Complaint

Request

Chaplain

Classification

Law Library

Explanation: Sir, I apologise for kiting you; I Just want all things to be known, My life is an open book I have nothing to hide from the State and/or the Jury. I Live for Christ, and live in the truth and if the state chooses to manipulate Truth, the word of God always Prevails, I have nothing to Hide and if that makes me Crazy - Sign me up Cause I know I'm Persecuted for Christ and Matthew 5:10-11 has plenty to say about that, Praise God; I Lay my Life down for the Church! I Choose to keep Lynn Brooks. As

Inmate's Signature: [Signature]

Receiving Deputy: [Signature]

ID# 15

Date/Time 3-20-15/1030

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to:

COURT

CR 14-22653

(to be filled in by Deputy receiving request form)

Answer:

☒ Approved ☐ Denied

Forward to Lynn Brooks - faxed
KCPA - faxed

Reason:

665-0220

446-1833

#6346

Responding Staff Signature: [Signature]

ID# 116

Date March 25, 2015

Copy to File ☒

Copy to Inmate ☒

Darol Keith Anderson

43673

60

JAIL SHR #307 Rev. 5/14

KOOTENAI COUNTY SHERIFF'S OFFICE

JAIL BUREAU

INMATE REQUEST FORM (KITE)

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 1110

2015 MAR 24 PM 3:20

MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

Inmate's Name:

Darol Anderson

Date:

3-23-15

Pod:

DEPUTY

Cell:

2

Name/Number:

545

Circle One:

Medical

Attorney/Court Contact

Haircut

Appeal

Complaint

Request

Chaplain

Classification

Law Library

Explanation:

Respectfully, I would like to Request to Be held in Shoshone County. I ASK Classification, And said it has to be Court ordered, Could you please order it so that I may start Proceedings in Shoshone County, And actually start moving forward All these Cases all the while getting and I would like to have a change of Venue since they put my face in the News Paper I got in Kootenai County.

Inmate's Signature:

12

Receiving Deputy:

MTA

ID#

37

Date/Time

3/23/15

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to:

JUDGE MITCHELL

CR14-22653

(to be filled in by Deputy receiving request form)

Answer: [] Approved [] Denied

Reason:

Forwarded to Lynn Brooks faxed + KCPA

665-0220

446-1833

#16346

Responding Staff Signature:

[Signature]

ID#

Date

3/26/15

Copy to File

Copy to Inmate

Darol Keith Anderson

43673

61

RECEIVED BY

MAR 11 2015

RECEIVED BY

MAR 27 2015

KOOTENAI COUNTY SHERIFF'S OFFICE

JAIL BUREAU

INMATE REQUEST FORM (KITE)

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: DEPENDERKOOTENAI COUNTY
PUBLIC DEFENDERMUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

2015 MAR 26 PM 2:49

CLERK DISTRICT COURT

Inmate's Name: Darol Anderson

Date: 3-4-15

Pod: DEPUTY

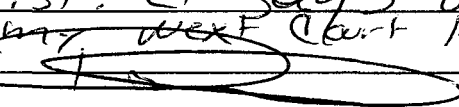
Cell: D-203

Name/Number: 545

Circle One: Medical
Attorney/Court Contact
Haircut
Law LibraryGrievance
Appeal
Complaint
RequestChaplain
Classification

CR 14-22653

Explanation: I WAS BOUND over to District Ct. Feb-3, 2015; I Have Not WAVED my Rights to A Speedy Jury. TRIAL At Any Time; Me And my Present Att. Lynn Brooks Have Had Conflicts; through All Proceedings In this Case I'd Feel MORE comfortable With A MALE Attorney, In this Case; Any Way I WAS wondering my Next Arrainment IN Dist. Ct. says up to 3 weeks- Going on 4 weeks. When is my next Court Hearing?

Inmate's Signature: 

Receiving Deputy: _____

ID# _____

Date/Time _____

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to: _____

(to be filled in by Deputy receiving request form)

Answer: ☐ Approved ☐ Denied

Reason: KCPA - Bailed 446-1833

L. Brooks - Bailed 665-0220
#6537Responding Staff Signature: 

ID# _____

Date

3/31/15

Copy to File ☒ Copy to Inmate ☒

Darol Keith Anderson

43673

62

JAIL SHR #307 Rev. 3/13

J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

STATE OF IDAHO } SS
 COUNTY OF KOOTENAI }
 FILED 927

2015 APR -2 PM 4:35

CLERK DISTRICT COURT
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-14-22653
V.)	
	)	MOTION TO REDUCE BOND OR FOR
DAROL KEITH ANDERSON,	)	OWN RECOGNIZANCE RELEASE
)	
Defendant.)	

COMES NOW, the above named defendant, by and through his attorney, J. Lynn Brooks, and hereby moves the Court for its Order reducing the bond in this matter, or releasing defendant on his own recognizance.

This motion is made pursuant to the 8th and 14th Amendments to the U.S. Constitution; Article I, §§ 6 and 13 of the Idaho Constitution; and I.C.R. 46.

This motion is made on the grounds that defendant has ties to the community and is not a flight risk, and the bond as set violates the defendant's rights to due process and to be free from excessive bond and cruel and unusual punishment as guaranteed by the U.S. and Idaho Constitutions.

Counsel requests that this motion be set for hearing in order to present oral argument, evidence and/or testimony in support thereof. Requested time is 10 minutes.

DATED this 2nd day of April, 2015.



J. LYNN BROOKS
ATTORNEY FOR DEFENDANT

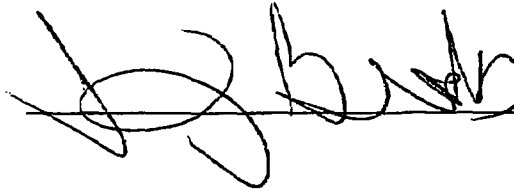
CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same by method indicated below on the 2nd day of April, 2015, addressed to:

Kootenai County Prosecuting Attorney

X Via Fax to (208) 446-1833

____ Hand-Delivery



Description	CR 2014-2265 Anderson, Darol 20150413 Arraignment in District Court CR 2014-2265 Anderson, Darol 20150413 Bond Hearing Judge Mitchell Court Reporter Julie Foland Clerk Tiffany Burton		
Date	4/13/2015	Location	1K-COURTROOM8
Time	Speaker	Note	
<u>03:17:46 PM</u>	J	Calls case; Def present in custody with Ms. Brooks; KC PA Ms. McGovern	
<u>03:18:01 PM</u>	PA	Amended information has not been filed with the court yet; not sure why. Would like to present now.	
<u>03:18:16 PM</u>	DA	I was handed one in court today.	
<u>03:19:12 PM</u>	PA	Linked to Count II and Count V.	
<u>03:20:42 PM</u>	Def	I have a copy of the information. That is my true and correct name. It is spelled accurately. My DOB and SSN are accurate. I am not under the influence of drugs or alcohol. I do not suffer from a mental health condition. I have a high school equivalant. Let's go ahead and read it.	
<u>03:22:10 PM</u>	J	Reads information.	
<u>03:27:50 PM</u>	Def	Understands penalties.	
<u>03:30:46 PM</u>	J	Reviews options and consequences; reviews choices.	
<u>03:31:58 PM</u>	Def	Understands, I do not need additional time with my attorney.	
<u>03:32:32 PM</u>	Def	I plead not guilty.	
<u>03:32:38 PM</u>	PA	2 day trial.	
<u>03:32:45 PM</u>	DA	Potential for several defense witnesses, would prefer three days.	
<u>03:32:56 PM</u>	J	Schedule for 3 day jury trial; next week?	
<u>03:33:10 PM</u>	DA	I'm not prepared for trial next week.	
<u>03:33:20 PM</u>	J	May 18th @ 9:00?	
<u>03:33:25 PM</u>	DA	Not sure why trial would be so soon; speedy begins at the beginning of filed information which was today. We will be filing a motion to request investigative services. 60 days before ready for trial.	
<u>03:34:19 PM</u>	J	Its my understanding speedy runs from the bind over matter.	
<u>03:34:33 PM</u>	DA	19-3105; dismissal of action. Reviews.	
<u>03:36:21 PM</u>	J	Set for 3 day trial beginning July 20th.	
<u>03:39:22 PM</u>	DA	OR release argument.	
<u>03:39:32 PM</u>	J	Reviews kite; Def said he would rather have a male attorney.	

<u>03:40:16 PM</u>	J	You are entitled to a defense; not entitled to pick and choose.
<u>03:40:24 PM</u>	DA	Def has a pending felony matter in Shoshone county. If court grants OR release he will be transported to Shoshone county. He will not be out of custody.
<u>03:41:10 PM</u>	PA	Objects; reviews criminal history. 14 bench warrants, 3 arrest warrants. He has prior domestic batter charges, causes the state concern. Has significant prior criminal history from CA. Prior history in South Dakota. Flight risk and re offend.
<u>03:43:24 PM</u>	DA	Number of convictions are remote in time; some 20 years ago.
<u>03:44:31 PM</u>	Def	I would like to speak for myself; I don't want to talk with Ms Brooks first. I don't want her advice before I start speaking. I wore a wire on some people on this county. Your county people thru them in the cell with me. I was jumped. I would like to be shipped to Shoshone county so I can be safe.
<u>03:45:36 PM</u>	J	Deny motion; increasing bond to \$100,000. Mr. Anderson can leave and I will continue making the record. Grave concerns for the victim in this case. Serious concerns of him being a flight risk. Compounded by his conduct through proceedings today. Ms. McGovern to prepare an order.
<u>03:47:51 PM</u>	End	

Produced by FTR Gold™
www.fortherecord.com

STATE OF IDAHO } ss
COUNTY OF KOOTENAI
FILED: 4-13-15
AT 3:15 O'CLOCK P.M.
CLERK, DISTRICT COURT
Jeffrey Burton
DEPUTY

BARRY MCHUGH
Kootenai County Prosecuting Attorney
501 N. Government Way/P.O. Box 9000
Coeur d'Alene, ID 83816-9000
Telephone Number: (208) 446-1800
Fax Number: (208) 446-1833

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,
vs.
DAROL KEITH ANDERSON,
DOB [REDACTED]
SSN: [REDACTED]
Fingerprint #: 2800083675
Defendant.

Case No. CR-F14-22653

INFORMATION

BARRY MCHUGH, Prosecuting Attorney in and for the County of Kootenai, State of Idaho, who prosecutes in its behalf, comes now into Court, and does accuse **DAROL KEITH ANDERSON** with committing the crime(s) of: **COUNT I: DOMESTIC BATTERY**, Idaho Code §§18-903, 18-918(2); **COUNT II: AGGRAVATED ASSAULT**, Idaho Code §§18-901, 18-905; **COUNT III: ATTEMPTED STRANGULATION**, Idaho Code §18-932; **COUNT IV: DOMESTIC BATTERY**, Idaho Code §§18-903, 18-918(3)(b); and **COUNT V: AGGRAVATED ASSAULT**, Idaho Code §§18-901, 18-905, and **PART II: WEAPONS ENHANCEMENT**, committed as follows:

COUNT I

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully use force and/or violence upon

the person of Erica Messerly, and by committing said battery, did inflict a traumatic injury upon the person of Erica Messerly, to-wit: a cuts and/or bruises, and where Erica Messerly and the Defendant are have a dating relationship and/or are household members;

COUNT II

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by act and/or word to do violence upon the person of Erica Messerly, with a deadly weapon or instrument, to-wit: a knife, which created a well-founded fear in Erica Messerly that such violence was imminent;

COUNT III

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully choke or attempt to strangle the person of Erica Messerly, to-wit: by squeezing her neck with his hands, and where Erica Messerly and the defendant have or had a dating relationship;

COUNT IV

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 7, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Erica Messerly, ^{to wit by pulling her hair and by punching her} where Erica Messerly and the Defendant ~~are~~ have a dating relationship and/or are household members; and ~~in the presence of children,~~ ^{7/22/15}

COUNT V

That the Defendant, **DAROL KEITH ANDERSON**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by act and/or word to do violence upon the person of Erica Messerly, with a deadly

weapon or instrument, to-wit: a metal pole, which created a well-founded fear in Erica Messerly that such violence was imminent, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the people of the State of Idaho.

PART II

The Prosecuting Attorney further informs the Court that the defendant, **DAROL KEITH ANDERSON**, on or between September 6-7, 2014, in the County of Kootenai, State of Idaho, did use a deadly weapon in the commission of a felony, to-wit: by **DAROL KEITH ANDERSON** using a knife and/or a metal pole to commit the felony crime(s) of AGGRAVATED ASSAULT, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the People of the State of Idaho.

DATED this 13th day of April, 2015.

BARRY MCHUGH
Kootenai County Prosecuting Attorney



EILEEN MCGOVERN
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of February, 2015, a true and correct copy of the foregoing was caused to be delivered as follows: ☐ mailed ☒ faxed ☐ hand delivered ☐ emailed ☐ Just Web

Conflict Public Defender
J. Lynn Brooks

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:

2015 APR 13 PM 4:56

CLERK DISTRICT COURT
[Signature]
DEPUTY

BARRY McHUGH
Prosecuting Attorney
501 Government Way/Box 9000
Coeur d'Alene, ID 83816-9000
Telephone: (208) 446-1800
Facsimile: (208) 446-1833

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,

vs.

DAROL KEITH ANDERSON,
Defendant.

Case No. CR-2014-22653

ORDER

The above matters came on for a hearing before the Honorable JUDGE MITCHELL, on the 13th day of April, 2015. The State was represented by EILEEN MCGOVERN, Deputy Prosecuting Attorney, for Kootenai County, Idaho. The defendant was present, represented by J. LYNN BROOKS, Attorney for the Defendant. After argument from both parties, the Court enters its order as follows:

IT IS HEREBY ORDERED that the defendant's Motion for Bond Reduction is DENIED for reasons set forth on the record, *and bond is increased to \$100,000.00*

ENTERED this 13th day of April, 2015.

[Signature]
JUDGE MITCHELL
DISTRICT COURT

ORDER

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of April, 2015, copies of the foregoing document(s) were mailed; postage prepaid, or sent by facsimile or inter-office mail to:

/ Deputy Prosecuting Attorney for Kootenai County FAX 208-446-1833
/ Defense Counsel Kootenai County Public Defender FAX 208-446-1701 *mail*
____ Defense Counsel FAX _____
____ Defendant _____
/ Kootenai County Sheriff's Office KCSD jailsqts@kcgov.us
____ Idaho Probation & Parole – Dist1@idoc.idaho.gov
____ Idaho Department of Correction FAX 208-327-7445
____ CCD Sentencing Team – CCDSentencingTeam@idoc.idaho.gov
____ Idaho Department of Transportation FAX 208-334-8739
____ Community Service Interoffice Mail or FAX 208-446-1193
____ Auditor nvigil@kcgov.us
____ BCI (Bureau of Criminal Investigation) FAX 208-884-7193
____ Kootenai County Law Library/Transcription FAX 208-446-1187
____ Central Records CentralRecords@idoc.idaho.gov
____ ISP Forensics Lab FAX 208-209-8716
____ Idaho State Industrial Commission, FAX: 208-334-5145

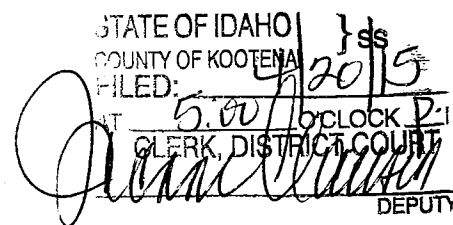
JIM BRANNON, CHIEF DEPUTY
CLERK OF THE DISTRICT COURT

By: *Jeffery Brannon*

Deputy Clerk

ORDER

J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623



**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-14-22653
V.)	
	)	MOTION FOR COURT TO EXERCISE
DAROL KEITH ANDERSON,	)	DISCRETION TO REQUEST
	)	APPOINTMENT OF ANOTHER JUDGE
Defendant.	)	TO CONSIDER DEFENSE REQUEST FOR
	)	PUBLIC FUNDS

COMES NOW, the above named defendant, by and through his attorney, J. Lynn Brooks, and hereby moves the Court to exercise its discretion to request the Administrative District Judge of the First Judicial District of the State of Idaho to appoint another judge to consider and conduct a hearing on a Motion to be filed by defense counsel requesting public funds to assist the defense in this case.

This Motion is made pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the U.S. Constitution; Article I, §§ 6 and 13 of the Idaho Constitution; Idaho Code §§ 19-851 and 19-852; Idaho Criminal Rule 12.2 (e); and in accordance with the standards enunciated in *Ake v. Oklahoma*, 470 U.S. 68 (1985), and *State v. Martin*, 146 Idaho 357 (Ct. App. 2008).

Counsel requests that this motion be set for hearing in order to present oral argument, evidence and/or testimony in support thereof, unless the Court is inclined to grant the Motion without a hearing.

**MOTION FOR COURT TO EXERCISE DISCRETION TO REQUEST APPOINTMENT OF ANOTHER JUDGE
 TO CONSIDER DEFENSE REQUEST FOR PUBLIC FUNDS**

1

DATED this 20th day of April, 2015.


J. LYNN BROOKS
ATTORNEY FOR DEFENDANT

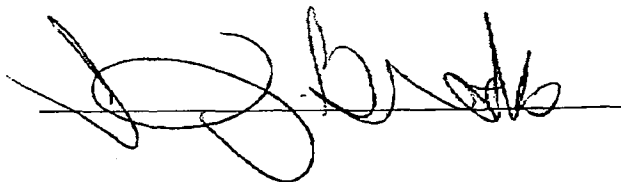
CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same by method indicated below on the 20th day of April, 2015, addressed to:

Kootenai County Prosecuting Attorney Via Fax to (208) 446-1833

Kootenai County Public Defender Via Fax to (208) 446-1701

Administrative District Judge Lansing L. Haynes, Via Fax to (208) 446-1132



MOTION FOR COURT TO EXERCISE DISCRETION TO REQUEST APPOINTMENT OF ANOTHER JUDGE
TO CONSIDER DEFENSE REQUEST FOR PUBLIC FUNDS

2

BARRY MCHUGH
Kootenai County Prosecuting Attorney
501 N. Government Way/P.O. Box 9000
Coeur d'Alene, ID 83816-9000
Telephone Number: (208) 446-1800
Fax Number: (208) 446-1833

Assigned Attorney
Eileen McGovern, *Deputy Prosecuting Attorney*

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:

2015 APR 22 AM 10:10

CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,

vs.

DAROL KEITH ANDERSON
Defendant.

Case No. CRF14-22653

**PLAINTIFF'S WITNESS
LIST**


The Plaintiff may call the following witnesses at trial, although not necessarily in the same order as listed.

Nicholas Lowry, 3818 N. Schreiber Way Coeur d Alene, ID 83814
Spencer Mortensen, 3818 N. Schreiber Way Coeur d Alene, ID 83814
JAMES LLOYD CRILE, 2834 N 14TH ST COEUR D'ALENE, ID 83815
AMY TERESE RECIO, 2834 N 14TH ST COEUR D'ALENE, ID 83815
LAWRENCE MICHAEL PRESTON, 1416 E. Stiner Ave. Coeur d'Alene, ID 83815
ERICA JEAN MESSERLY, 612 W HAYCRAFT AVE COEUR D'ALENE, ID 83815

The State reserves the right to supplement discovery as it becomes available.

DATED this 21st day of April, 2015.

BARRY MCHUGH
Kootenai County Prosecuting Attorney


Eileen McGovern
Deputy Prosecuting Attorney

PLAINTIFF'S WITNESS LIST

Page 1 of 2

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of April, 2015, a true and correct copy of the foregoing was caused to be delivered as follows: ☐ mailed ☒ faxed ☐ hand delivered ☐ emailed ☐ JusticeWeb

Conflict Public Defender
J. Lynn Brooks
Fax 665-0220



CR14-22653

KOOTENAI COUNTY SHERIFF'S OFFICE
JAIL BUREAU
INMATE REQUEST FORM (KITE)

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:

MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

2015 APR 22 PM 3:42

CLARK DISTRICT COURT

Inmate's Name: Darol Anderson

Date: 4-21-14
Pod: DEPUTY
Cell: 2
Name/Number: 545

Circle One: Medical
Attorney/Court Contact
Haircut

Appeal
Complaint
Request

Chaplain
Classification
Law Library

Explanation:

I would like to Ask the Court If I Could wright An Apology Letter To MS ERICA Jean Messerly, I Did Not show love And affection to ERICA, or forgiveness in this situation I Am Ashamed of the way I Acted, But its A Very hard thing to Be Faultly Accused, Expecially when; I Sacrificed my Life And All things; God Blesses me with; But As the Word says that your Faith will Be tried fine; and, Mine WAS and I suffered Loss; And I WAS tempted & Failed, So God Has me Right where He wants me. Please forgive me for my Short coming.

Inmate's Signature: [Signature]

Receiving Deputy: C. May

ID# 2245

Date/Time 4/21/15

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to:

Judge Mitchell

Dist- CRT

(to be filled in by Deputy receiving request form)

Answer: [] Approved [] Denied

Reason:

Faxed to KCPA - 446-1833

J. Lynn Brooks - 665-0220

#7509

Responding Staff Signature:

[Signature]

ID#

Date

4/24/15

Copy to File

Copy to Inmate ✓

Description	CR 2014-22653 Anderson, Darol 20150504 Motion Judge Mitchell Court Reporter Julie Foland Clerk Jeanne Clausen		
Date	5/4/2015	Location	1K-COURTROOM8
Time	Speaker	Note	
<u>03:19:12 PM</u>	J	Calls case - Defendant present incustody and represented by Ms. Brooks. Mr. Mortensen for the state.	
<u>04:09:50 PM</u>	DA	File the motion because need to hire an investigator, but my client is indigent. Would like to have a Judge appointed to hear the requests for money. Requires disclosure of defense's strategy.	
<u>04:11:33 PM</u>	J	You could tell me an amount and could sign an order without knowing your strategy.	
<u>04:12:07 PM</u>	PA	No objection.	
<u>04:12:10 PM</u>	J	Your client has the right to an investigator. I will deny order for another Judge to hear the motions for money to pay investigator, but will order up to \$3,000 for use of investigator. You will have to submit accounting for it. Can be done in camera.	
<u>04:13:44 PM</u>	DA	I will submit an order for this first thing in the morning.	
<u>04:14:12 PM</u>	J	Motion granted.	
<u>04:14:17 PM</u>	PA	Nothing further.	
<u>04:14:26 PM</u>	DA	Nothing further.	
<u>04:14:36 PM</u>	End		

Produced by FTR Gold™
www.fortherecord.com

J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

STATE OF IDAHO
 COUNTY OF KOOTENAI
 FILED: 3/4/15
 4:15 P.M.
 CLERK, DISTRICT COURT
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-14-22653
)	
V.)	
	)	EX PARTE MOTION FOR
DAROL KEITH ANDERSON,	)	INVESTIGATIVE SERVICES TO BE PAID
	)	FROM COUNTY FUNDS
Defendant.)	
)	

COMES NOW the above-named defendant, by and through his attorney, J. Lynn Brooks, Conflict Public Defender, and hereby moves this Court for an Order to authorize payment not to exceed three thousand dollars (\$3000.00) to Integrity Investigations, P.O. Box 2494, Hayden, ID 83835; (208) 651-0170; for investigative services in this case.

This Motion is made pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the U.S. Constitution; Article I, §§ 6 and 13 of the Idaho Constitution; Idaho Code §§ 19-851 and 19-852; Idaho Criminal Rule 12.2; and in accordance with the standards enunciated in *Ake v. Oklahoma*, 470 U.S. 68 (1985), and *State v. Martin*, 146 Idaho 357 (Ct. App. 2008).

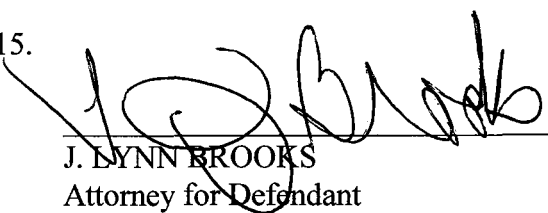
Furthermore, Defendant's right to effective assistance of counsel and a fair trial cannot be reasonably met without the requested investigative assistance. In the absence of public funds to prepare his defense, Defendant will be denied his State and Federal constitutional rights to due

process, to a fair trial, and to effective assistance of counsel. Defendant faces an aggregate maximum penalty of 50 years in prison on the charges filed in this case.

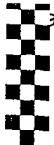
Wherefore, Defendant requests that the Court authorize funds in an amount not to exceed \$3000 for investigative services, to be paid from the Kootenai County fund designated for such expenses.

The defendant was determined to be indigent by the above-entitled Court on January 20, 2015, and his representation is provided for by the undersigned counsel as a Conflict Public Defender.

DATED this 4th day of May, 2015.



J. LYNN BROOKS
Attorney for Defendant



J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

STATE OF IDAHO
 COUNTY OF KOOTENAI
 FILED: 5/5/15
 AT 1:10 PM
 CLERK, DISTRICT COURT
 DEPUTY

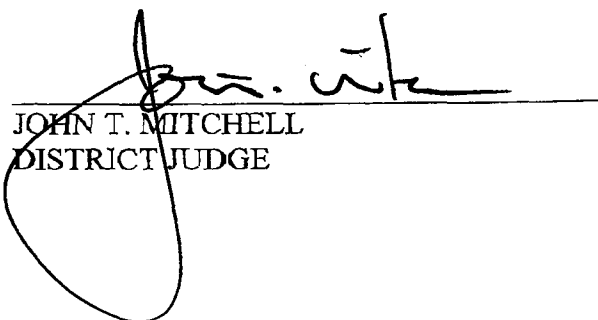
**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-14-22653
V.)	
	)	ORDER ON MOTION FOR
DAROL KEITH ANDERSON,	)	INVESTIGATIVE SERVICES TO BE PAID
	)	FROM COUNTY FUNDS
Defendant.)	

The Court having before it Defendant's Motion for Investigative Services to be Paid from County Funds, and good cause appearing, now, therefore:

IT IS HEREBY ORDERED that a sum not to exceed three thousand dollars (\$3000.00) is to be paid to Integrity Investigations, P.O. Box 2494, Hayden, ID 83835; (208) 651-0170; for investigative services in this case, upon presentation of its invoice to the Clerk of Court for payment.

DATED this 5th day of May, 2015.


 JOHN T. MITCHELL
 DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 5 day of May, 2015, addressed to:

J. Lynn Brooks, counsel for Defendant Via Fax to (208) 665-0220 ✓

Kootenai County Prosecuting Attorney

____ Via Fax to (208) 446-1833 ✓

____ Via interoffice mail

Nicole Vigil - email
#7928
1:10pm

Donna Clauson

KOOTENAI COUNTY SHERIFF'S OFFICE
JAIL BUREAU
INMATE REQUEST FORM (KITE)

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

CR14-22003

MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

2015 MAY 15 PM 3:22

CLERK DISTRICT COURT

Inmate's Name: Darol Anderson

Date:

Pod:

Cell:

Name/Number:

5-14-15 AM
DEPUTY
545

Judge Mitchell

Circle One:

Medical

Attorney/Court Contact

Haircut

Appeal

Complaint

Request

Chaplain

Classification

Law Library

Explanation: Judge Mitchell; This is what I do know About Mrs Messerly
she will do Anything to protect her addiction; And will
jump through all hoops the system has to throw out at
her; them kids; are the ones that pay in the end I
know you care About the people that come through your
Court, and there family's; Erica Abused TRAMODOL & GAVAPENTER
Thru your whole Program. And the kids are the ones that
payed And she will always trip up them kids for her constant
addiction, And Almost Guarantee she is Abusing her meds she is taking
now; them kids will Lie tooth & Nail for her, Please for the kids

Inmate's Signature:

[Signature] SAKE make sure C.P.S Does there Job
this time

Receiving Deputy:

DLEB

ID#

53

Date/Time

5/14/15

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to:

COURT

(to be filled in by Deputy receiving request form)

Answer:

[] Approved [] Denied

Reason:

Faxed to: KCPA - 446-1833

DA - J. Lynn Brooks - 665-0220

#4687

Responding Staff Signature:

[Signature]

ID#

Date

5/27/15

Copy to File

Copy to Inmate

Darol Keith Anderson

43673

82

116

KOOTENAI COUNTY SHERIFF'S OFFICE
JAIL BUREAU
INMATE REQUEST FORM (KITE)

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: } SS

MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

Inmate's Name: Darol K Anderson CR14-2203

CLERK DISTRICT COURT
Date: 6-5-15
Pod: E
Cell: 2 DEPUTY
Name/Number: 545

Honorable Judge McGee

Circle One: ☒ Medical
☒ Attorney/Court Contact
☐ Haircut
☐ Appeal
☐ Complaint
☐ Request
☐ Chaplain
☐ Classification
☐ Law Library

Explanation: Sir, the last time I came in front of you I was charged with Domestic violence Against my ex-wife erica messery; I Brought to your Attention that ERICA WAS USING the system to incarcerate me; So she could go use Drugs; and with in A month she would Be Before your Court High & Loose her kids; Which in fact Came true; I made some choices At that time; that caused me A lot of trouble; I allowed myself to Be Beat down to the point of suicide; I gave up. But It was A Blessing in the end. Will you Please order A Hair follicle test - So I Can Prove my Sobriety until that point.

Inmate's Signature: Darol The sooner the Better More Sobriety time to prove.

Receiving Deputy: Bob ID# 20 Date/Time 6-6-15

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to: Court
(to be filled in by Deputy receiving request form)

Answer: [] Approved [] Denied

Reason: Referred to KCPA - 446-1833
DA - Lynn Brooks - 665-0220
#9371

Responding Staff Signature: J. Clausen ID# _____ Date 6/12/15

Copy to File _____ Copy to Inmate _____
Darol Keith Anderson

KOOTENAI COUNTY SHERIFF'S OFFICE
JAIL BUREAU
INMATE REQUEST FORM (KITE)

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 114

2015 JUN 17 PM 3:11

MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

Inmate's Name: Darol Anderson

Date: 6.16.15
Pod: E
Cell: 2
Name/Number: 545

Judge Mitchell

Circle One: ☒ Medical ☒ Attorney/Court Contact ☐ Appeal ☐ Complaint ☐ Request ☐ Chaplain ☐ Classification ☐ Law Library

Explanation:

I would like respectfully know why my Kite to Judge McGee was sent to your court & not Judge McGee's court it has nothing to do with case # CR14-22653 ✓ But J. Clausen sent it to my Public Defender & Kootenai District Attorney - on 6/12/15 Kite # 116 has nothing to do with Kootenai County. It should have been sent to Shoshone County - To Judge McGee -

Inmate's Signature: [Signature]

Receiving Deputy: [Signature]

ID# 37

Date/Time 6/16/15

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to: JUDGE MITCHELL
(to be filled in by Deputy receiving request form)

Answer: [] Approved [] Denied

Reason: Forwarded Copy of this KITE + KITE dated 6/6/15 to Shoshone Co. Attn: Judge McGee.

Responding Staff Signature: [Signature]

ID#

Date

6/22/15

Copy to File _____ Copy to Inmate _____

Darol Keith Anderson

43673

84

JAIL SHR #307 Rev. 5/14

J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

STATE OF IDAHO
 COUNTY OF KOOTENAI
 FILED: *SS*
 2015 JUN 29 PM 4:24 *151*
 CLERK DISTRICT COURT
[Signature]
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAROL KEITH ANDERSON,

Defendant.

CASE NUMBER CR-14-22653

**MOTION TO REQUIRE KOOTENAI
 COUNTY SHERIFF'S OFFICE TO
 ACCEPT CLOTHING FOR DEFENDANT
 TO WEAR DURING JURY TRIAL**

COMES NOW the above-named Defendant, by and through his attorney of record, J. Lynn Brooks, and hereby moves the Court for an Order requiring the Kootenai County Sheriff's Office to accept civilian clothing for Defendant to wear during a Jury Trial set to begin before the Honorable John T. Mitchell on JULY 20, 2015 at 9:00 a.m., and expected to last three days. Therefore, it is requested that the Kootenai County Sheriff's Office be ordered to accept THREE sets of clothing for Defendant.

DATED this 29th day of June, 2015.

[Signature]
 J. LYNN BROOKS
 ATTORNEY FOR DEFENDANT

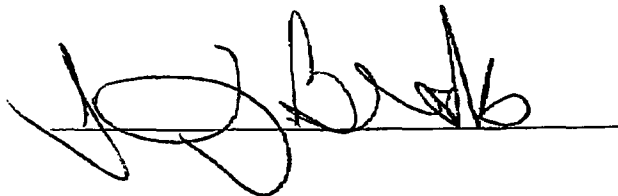
**MOTION TO REQUIRE KOOTENAI COUNTY SHERIFF'S OFFICE TO ACCEPT CLOTHING FOR
 DEFENDANT TO WEAR DURING JURY TRIAL**

Page 1

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same by method indicated below on the 29th day of June, 2015, addressed to:

Kootenai County Prosecutor via fax to 446-1833

A handwritten signature in black ink, appearing to read "J. Lynn Brooks", is written over a horizontal line.

**MOTION TO REQUIRE KOOTENAI COUNTY SHERIFF'S OFFICE TO ACCEPT CLOTHING FOR
DEFENDANT TO WEAR DURING JURY TRIAL**

Page 2

J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

STATE OF IDAHO
 COUNTY OF KOOTENAI
 FILED: *SS*
 2015 JUN 29 PM 4: 24
 CLERK DISTRICT COURT
Barbara
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-14-22653
)	
V.)	
	)	WITNESS LIST
DAROL KEITH ANDERSON,)	
)	
Defendant.)	

COMES NOW, J. Lynn Brooks, Conflict Public Defender, and hereby submits the following list of witnesses other than the Defendant herein who may be called to testify at the jury trial on behalf of Defendant:

Robert Cook, 743 E. Whispering Pines Lane, #24, Coeur d'Alene, ID 83815

Shanntell Cook, 743 E. Whispering Pines Lane, #24, Coeur d'Alene, ID 83815

Any witnesses listed in the Plaintiff's Witness List served on defense counsel on April 22, 2015.

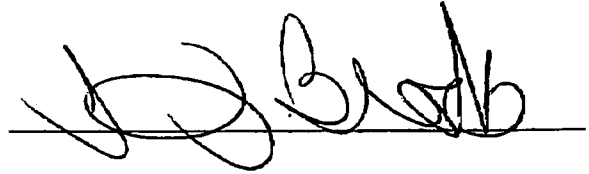
DATED this 29th day of June, 2015.

J. Lynn Brooks
 J. LYNN BROOKS
 Attorney for Defendant

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same by method indicated below on the 29th day of June, 2015, addressed to:

Kootenai County Prosecuting Attorney via fax to 446-1833

A handwritten signature in black ink, appearing to read "J. Lynn Brooks", is written over a horizontal line.

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2015 JUL 14 AM 10:09

CLERK DISTRICT COURT

DEPUTY

J. Lynn Brooks, Attorney at Law
Conflict Public Defender
P.O. Box 2931
Hayden, Idaho 83835
Telephone: (208) 665-0385
Fax: (208) 665-0220
brookslawcda@roadrunner.com
Bar Number: 3623

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAROL KEITH ANDERSON,

Defendant.

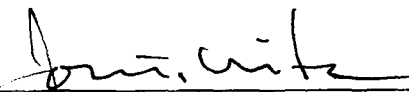
CASE NUMBER CR-14-22653

**ORDER REQUIRING KOOTENAI
COUNTY SHERIFF'S OFFICE TO
ACCEPT CLOTHING FOR DEFENDANT
TO WEAR DURING JURY TRIAL**

The Court having before it the Motion to Require Kootenai County Sheriff's Office to Accept Clothing for Defendant to Wear During Jury Trial and good cause appearing, now, therefore

IT IS HEREBY ORDERED the Kootenai County Sheriff's Office shall accept a sufficient supply of clothing for Defendant to wear during his THREE day Jury Trial set to commence on JULY 20, 2015 at 9:00 a.m.

DATED this 14th day of July, 2015.


JOHN T. MITCHELL
DISTRICT JUDGE

**ORDER REQUIRING KOOTENAI COUNTY SHERIFF'S OFFICE TO ACCEPT CLOTHING FOR
DEFENDANT TO WEAR DURING JURY TRIAL**

Page 1

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same by method indicated below on the 14 day of ~~June~~ ^{July}, 2015, addressed to:

J. Lynn Brooks, Defense Counsel via fax to 665-0220 ✓

Kootenai County Prosecutor via fax to 446-1833 ✓

Kootenai County Jail via ~~fax~~ ^{email} to 446-1407

#386 10:06am

Joanne Clauson

**ORDER REQUIRING KOOTENAI COUNTY SHERIFF'S OFFICE TO ACCEPT CLOTHING FOR
DEFENDANT TO WEAR DURING JURY TRIAL**

Page 2

J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

116
 STATE OF IDAHO
 COUNTY OF KOOTENAI } SS
 FILED:
 2015 JUL 10 PM 4:41

CLERK DISTRICT COURT
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-14-22653
)	
V.	)	*AMENDED*
	)	WITNESS LIST
DAROL KEITH ANDERSON,)	
)	
Defendant.)	

COMES NOW, J. Lynn Brooks, Conflict Public Defender, and hereby submits the following list of witnesses other than the Defendant herein who may be called to testify at the jury trial on behalf of Defendant:

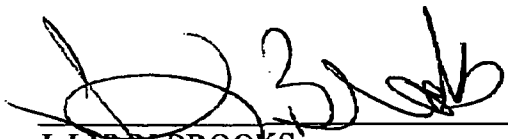
Robert Cook, 743 E. Whispering Pines Lane, #24, Coeur d'Alene, ID 83815

Shanntell Cook, 743 E. Whispering Pines Lane, #24, Coeur d'Alene, ID 83815

Kim Sego, 1207 Garden Ave., Coeur d'Alene, ID 83814

Any witnesses listed in the Plaintiff's Witness List served on defense counsel on April 22, 2015.

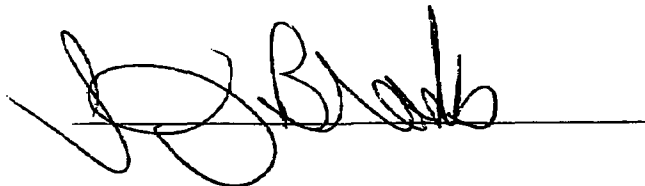
DATED this 10th day of July, 2015.


 J. LYNN BROOKS
 Attorney for Defendant

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same by method indicated below on the 10th day of July, 2015, addressed to:

Kootenai County Prosecuting Attorney via fax to 446-1833

A handwritten signature in black ink, appearing to read "J. Lynn Brooks", is written over a horizontal line.

J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Phone/Fax: (208) 665-0385
 brookslawcda@roadrunner.com
 Bar Number: 3623

STATE OF IDAHO
 COUNTY OF KOOTENAI
 FILED: *SM #104*
 2015 JUL 13 AM 8:13

CLERK DISTRICT COURT
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 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAROL KEITH ANDERSON,

Defendant.

CASE NUMBER CR-14-22653

DEFENDANT'S REQUESTED
 JURY INSTRUCTIONS

COMES NOW, the above named defendant, by and through her attorney, J. Lynn Brooks,
 and respectfully submits the Defendant's Requested Jury Instructions No. 1 through 15
 and proposed verdict form, in addition to the Court's general instructions on the law.

DATED this 13th day of July, 2015.

[Signature]
 J. LYNN BROOKS
 ATTORNEY FOR DEFENDANT

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing
 a copy of the same as indicated below on the 13th day of July, 2015, addressed to:

Kootenai County Prosecutor via fax to 446-1833

DEFENDANT'S REQUESTED JURY INSTRUCTIONS

1

ICJI 103 REASONABLE DOUBT

DEFENDANT'S REQUESTED
INSTRUCTION NO. 1

Under our law and system of justice, the defendant is presumed to be innocent. The presumption of innocence means two things.

First, the state has the burden of proving the defendant guilty. The state has that burden throughout the trial. The defendant is never required to prove [his] [her] innocence, nor does the defendant ever have to produce any evidence at all.

Second, the state must prove the alleged crime beyond a reasonable doubt. A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

Comment

The Due Process Clause of the Fourteenth Amendment requires that the jury be instructed on the presumption of innocence. *Taylor v. Kentucky*, 436 U.S. 478 (1977). Although technically not a "presumption", the presumption of innocence is a way of describing the prosecution's duty both to produce evidence of guilt and to convince the jury beyond a reasonable doubt. *Id.*

"The beyond a reasonable doubt standard is a requirement of due process, but the Constitution neither prohibits trial courts from defining reasonable doubt nor requires them to do so as a matter of course. Indeed, so long as the court instructs the jury on the necessity that the defendant's guilt be proved beyond a reasonable doubt, the Constitution does not require that any particular form of words be used in advising the jury of the government's burden of proof. Rather, 'taken as a whole, the instructions [must] correctl[y] convey the concept of reasonable doubt to the jury.'" *Victor v. Nebraska*, 511 U.S. 1, 5 (1994) (citations omitted).

The above instruction reflects the view that it is preferable to instruct the jury on the meaning of proof beyond a reasonable doubt. This instruction defines that term concisely while avoiding the pitfalls arising from some other attempts to define this concept.

GIVEN _____

REFUSED ✓

MODIFIED _____

COVERED ✓

my cts # 5

JUDGE 

ICJI 105 DUTY OF COURT

DEFENDANT'S REQUESTED
INSTRUCTION NO. 2

If during the trial I may say or do anything which suggests to you that I am inclined to favor the claims or position of any party, you will not permit yourself to be influenced by any such suggestion. I will not express nor intend to express, nor will I intend to intimate, any opinion as to which witnesses are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn from the evidence. If any expression of mine seems to indicate an opinion relating to any of these matters, I instruct you to disregard it.

I may at times use the word "victim" in these instructions or in the course of this trial. This word is used only to refer to a person or persons who are alleged to have been victimized, and is used only for convenience. It does not indicate any opinion on my part that a person is a victim, or that the defendant has committed an offense. Whether a person is a victim, and whether the defendant is guilty of any offense, are matters for you alone to determine based on the evidence presented at trial.

GIVEN ✓ 2nd P onlyREFUSED ~~✓~~ 1st P only 105 - 150 not at

MODIFIED _____

COVERED ✓ 1st P by Ct to 46_____
JUDGE

ICJI 110 CONSIDER EACH COUNT SEPARATELY

DEFENDANT'S REQUESTED
INSTRUCTION NO. 3

Each count charges a separate and distinct offense. You must decide each count separately on the evidence and the law that applies to it, uninfluenced by your decision as to any other count. The defendant may be found guilty or not guilty on either or both of the offenses charged.

GIVEN

✓

REFUSED

MODIFIED

COVERED

JUDGE



ICJI 301 EFFECT OF DEFENDANT'S ELECTION NOT TO TESTIFY

DEFENDANT'S REQUESTED
INSTRUCTION NO. 4

A defendant in a criminal trial has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

GIVEN ✓

REFUSED _____

MODIFIED _____

COVERED _____

JUDGE jm

ICJI 305 UNION OF ACT AND INTENT

DEFENDANT'S REQUESTED
INSTRUCTION NO. 5

In every crime or public offense there must exist a union or joint operation of act and intent.

Comment

I.C. s 18-114. The word "intent" does not mean an intent to commit a crime but merely the intent to knowingly perform the interdicted act, or by criminal negligence the failure to perform the required act. *State v. Parish*, 79 Idaho 75, 310 P.2d 1082 (1957); *State v. Booton*, 85 Idaho 51, 375 P.2d 536 (1962). The term "criminal negligence", means gross negligence, such as amounts to reckless disregard of consequences and the rights of others. *State v. McMahan*, 57 Idaho 240, 65 P.2d 156 (1937) (construing former I.C. s 17-114 which was identical to s 18-114).

This instruction is unnecessary when the crime charged requires a specific mental element and the jury is properly instructed regarding that mental element. *State v. Hoffman*, 137 Idaho 897, 55 P.3d 890 (Ct. App. 2002).

GIVEN ✓REFUSED MODIFIED COVERED JUDGE

ICJI 1277 DOMESTIC BATTERY

DEFENDANT'S REQUESTED
INSTRUCTION NO. 6

In order for the defendant to be guilty of Count I, Domestic Battery, the state must prove each of the following:

1. On or about September 6, 2014
2. in the state of Idaho
3. the defendant DAROL KEITH ANDERSON committed a battery upon ERICA MESSERLY by willfully and unlawfully using force and/or violence upon her — 1277 says
4. while they were household members, and
5. in doing so the defendant inflicted a traumatic injury upon ERICA MESSERLY. "Description of the context"

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Persons are "household members" if they are married to each other, were ever married to each other, or are cohabitating, regardless of whether they have married or hold themselves out to be husband and wife.

"Traumatic injury" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.

Comment

I.C. §§ 18-903 & 18-918(1)&(3). Use IDJI 1201 for definition of battery.

The charging document apprises the defendant in general terms of the manner in which he is alleged to have committed the crime charged. If there is evidence of other uncharged conduct by the defendant which could also fit within the statutory definition of the crime charged and if the jury is merely instructed regarding the statutory definition of the crime, the defendant may be denied due process by being convicted for a crime different from that charged. *State v. Sherrod*, 131 Idaho 56, 951 P.2d 1283 (Ct. App. 1998). Therefore, in that circumstance the jury instruction should include, in general terms, the description of the conduct alleged in the charging document to constitute the crime charged.

Prior to July 1, 1996, the statute required that the defendant and the alleged victim both be adults, and the definition of "household member" was more restricted.

A traumatic injury includes bruising. *State v. Hart*, 135 Idaho 827, 25 P.3d 850 (2001).

The statutory definition of "traumatic injury" is not unconstitutionally vague. *State v. Hellickson*, 135 Idaho 742, 24 P.2d 59 (2001).

GIVEN _____

REFUSED _____ ✓

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by TIA # 2, 3 + 8

JUDGE

✓

ICJ 340 WILFUL DEFINED

DEFENDANT'S REQUESTED
INSTRUCTION NO. 7

An act is "wilful" or done "wilfully" when done on purpose. One can act wilfully without intending to violate the law, to injure another, or to acquire any advantage.

Comment

IC § 18-101(1). The word "wilfully," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or injure another, or to acquire any advantage.

GIVEN

REFUSED

MODIFIED

COVERED

JUDGE

ICJI 1517 SELF-DEFENSE

DEFENDANT'S REQUESTED
INSTRUCTION NO. 8

read on the defense of mother - this gets rid of

A battery is justifiable if the defendant was acting in self-defense.

In order to find that the defendant acted in self-defense, all of the following conditions must be found to have been in existence at the time of the striking:

1. The defendant must have believed that the defendant was in imminent danger of bodily harm.
2. In addition to that belief, the defendant must have believed that the action the defendant took was necessary to save the defendant from the danger presented.
3. The circumstances must have been such that a reasonable person, under similar circumstances, would have believed that the defendant was in imminent danger of bodily injury and believed that the action taken was necessary.
4. The defendant must have acted only in response to that danger and not for some other motivation.
5. When there is no longer any reasonable appearance of danger, the right of self-defense ends.

In deciding upon the reasonableness of the defendant's beliefs, you should determine what an ordinary and reasonable person might have concluded from all the facts and circumstances which the evidence shows existed at that time, and not with the benefit of hindsight.

The danger must have been present and imminent, or must have so appeared to a reasonable person under the circumstances. A bare fear of bodily injury is not sufficient to justify a battery. The defendant must have acted under the influence of fears that only a reasonable person would have had in a similar position.

The burden is on the prosecution to prove beyond a reasonable doubt that the battery was not justifiable. If there is a reasonable doubt whether the battery was justifiable, you must find the defendant not guilty.

Comment

I.C. ss 18-4009, 18-4010 & 18-4013. *State v. Baker*, 103 Idaho 43, 644 P.2d 365 (Ct. App. 1982); *State v. Wilson*, 41 Idaho 616, 243 P.2d 359 (1925).

This instruction may be modified by the appropriate selection of bracketed language for use in

cases involving defense of others as well as for use in either homicide or battery cases.

Use number 5 only where "abatement" appears from the evidence.

Idaho statutory and case law previously cast the burden upon a homicide defendant to prove that the defendant's actions were excusable, as in self-defense. However, in that particular circumstance, the underlying statute, I.C. s 19-2112, was repealed in 1977 (1977 Session Law Chapter 154 Section 6). *Martin v. Ohio*, 480 U.S. 228, 94 L.Ed. 2d 267, 108 S.Ct. 1098 (1987), suggests that Idaho is among 48 states which no longer place such a burden on the defendant, although they would be constitutionally permitted to do so.

GIVEN

✓

REFUSED

MODIFIED

COVERED

JUDGE

Jr

Sec 11's & 5

ICJI 1205 AGGRAVATED ASSAULT

DEFENDANT'S REQUESTED
INSTRUCTION NO. 9

In order for the defendant to be guilty of Count II, Aggravated Assault, the state must prove each of the following:

1. On or about September 6, 2014,
2. in the state of Idaho,
3. the defendant DAROL KEITH ANDERSON committed an assault upon ERICA MESSERLY
4. by intentionally, unlawfully and with apparent ability threaten by act and/or word to do violence upon the person of ERICA MESSERLY, which created a well-founded fear in ERICA MESSERLY that such violence was imminent, and
5. the defendant committed that assault with a deadly weapon or instrument, to-wit: a knife.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18-905. The definition of "deadly weapon" is set out in ICJI 1206. No definition of "great bodily harm" is necessary, see the comment to ICJI 1206 and ICJI 1207. The bracketed words "but without the intent to kill" should be used only when the jury is instructed on "Aggravated Assault" as an included offense of a higher offense that includes an intent to kill. Assault is defined in ICJI 1201.

The charging document apprises the defendant in general terms of the manner in which he is alleged to have committed the crime charged. If there is evidence of other uncharged conduct by the defendant which could also fit within the statutory definition of the crime charged and if the jury is merely instructed regarding the statutory definition of the crime, the defendant may be denied due process by being convicted for a crime different from that charged. *State v. Sherrod*, 131 Idaho 56, 951 P.2d 1283 (Ct. App. 1998). Therefore, in that circumstance the jury instruction should include, in general terms, the description of the conduct alleged in the charging document to constitute the crime charged.

GIVEN

REFUSED

MODIFIED

COVERED

JUDGE

ICJI 1206 DEADLY WEAPON DEFINED

DEFENDANT'S REQUESTED
INSTRUCTION NO. 10

A "deadly weapon or instrument" is one likely to produce death or great bodily injury. It also includes any other object that is capable of being used in a deadly or dangerous manner if the person intends to use it as a weapon.

Comment

State v. Missenberger, 86 Idaho 321, 386 P.2d 559 (1963); *State v. Lenz*, 103 Idaho 632, 651 P.2d 566 (Ct. App. 1982). I.C. § 18-905(d).

The committee recommends that the phrase "great bodily injury" not be defined. "The irresistible impulse to define words of ordinary English is unfortunately pervasive. It should be curbed." *People v. Kimbrel*, 174 Cal.Rptr. 816, 819 (Ct. App. 1981).

See also *State v. Townsend*, 124 Idaho 881, 865 P.2d 972 (1993), holding that a bare hand is not a deadly weapon under the aggravated assault and aggravated battery statutes, I.C. §§ 18-907 & 18-905; and *State v. Huston*, 121 Idaho 738, 828 P.2d 301 (1992), holding that a boot worn by the defendant can be a weapon under I.C. § 18-905.

GIVEN REFUSED 

MODIFIED _____

COVERED 

JUDGE

ICJI 1214 ATTEMPTED STRANGULATION

DEFENDANT'S REQUESTED
INSTRUCTION NO. 11

In order for the defendant to be guilty of Count III, Attempted Strangulation, the state must prove each of the following:

1. On or about September 6, 2014
2. in the state of Idaho
3. the defendant DAROL KEITH ANDERSON choked or attempted to strangle,
4. ERICA MESSERLY
5. willfully and unlawfully, and
6. ERICA MESSERLY was a person with whom DAROL KEITH ANDERSON had a dating relationship, either at the time of the offense or at a previous time.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

"Dating relationship" is a social relationship of a romantic nature. Factors that you may consider in making this determination include: (1) the nature of the relationship; (2) the length of time the relationship has existed; and (3) the frequency of interaction between the persons.

The state is not required to show that the defendant intended to kill or injure the victim. The only intent required is the intent to choke or attempt to strangle.

Comment

I.C. § 18-923; I.C. §§ 18-918, 39-6303.

GIVEN _____

REFUSED /

MODIFIED _____

COVERED _____



JUDGE

ICJI 1277 DOMESTIC BATTERY

DEFENDANT'S REQUESTED
INSTRUCTION NO. 12

In order for the defendant to be guilty of Count IV, Domestic Battery, the state must prove each of the following:

1. On or about September 7, 2014
2. in the state of Idaho
3. the defendant DAROL KEITH ANDERSON committed a battery upon ERICA MESSERLY by willfully and unlawfully using force and/or violence upon her
4. while they were household members.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Persons are "household members" if they are married to each other, were ever married to each other, or are cohabitating, regardless of whether they have married or hold themselves out to be husband and wife.

"Traumatic injury" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.

Comment

I.C. §§ 18-903 & 18-918(1)&(3). Use IDJI 1201 for definition of battery.

The charging document appries the defendant in general terms of the manner in which he is alleged to have committed the crime charged. If there is evidence of other uncharged conduct by the defendant which could also fit within the statutory definition of the crime charged and if the jury is merely instructed regarding the statutory definition of the crime, the defendant may be denied due process by being convicted for a crime different from that charged. *State v. Sherrod*, 131 Idaho 56, 951 P.2d 1283 (Ct. App. 1998). Therefore, in that circumstance the jury instruction should include, in general terms, the description of the conduct alleged in the charging document to constitute the crime charged.

Prior to July 1, 1996, the statute required that the defendant and the alleged victim both be adults, and the definition of "household member" was more restricted.

A traumatic injury includes bruising. *State v. Hart*, 135 Idaho 827, 25 P.3d 850 (2001).

The statutory definition of "traumatic injury" is not unconstitutionally vague. *State v. Hellickson*, 135 Idaho 742, 24 P.2d 59 (2001).

GIVEN _____

REFUSED _____

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COVERED _____

JUDGE _____

ICJI 1205 AGGRAVATED ASSAULT

DEFENDANT'S REQUESTED
INSTRUCTION NO. 13

In order for the defendant to be guilty of Count V, Aggravated Assault, the state must prove each of the following:

1. On or about September 6, 2014,
2. in the state of Idaho,
3. the defendant DAROL KEITH ANDERSON committed an assault upon ERICA MESSERLY
4. by intentionally, unlawfully and with apparent ability threaten by act and/or word to do violence upon the person of ERICA MESSERLY, which created a well-founded fear in ERICA MESSERLY that such violence was imminent, and
5. the defendant committed that assault with a deadly weapon or instrument, to-wit: a metal pole.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.


Comment

I.C. § 18-905. The definition of "deadly weapon" is set out in ICJI 1206. No definition of "great bodily harm" is necessary, see the comment to ICJI 1206 and ICJI 1207. The bracketed words "but without the intent to kill" should be used only when the jury is instructed on "Aggravated Assault" as an included offense of a higher offense that includes an intent to kill. Assault is defined in ICJI 1201.

The charging document apprises the defendant in general terms of the manner in which he is alleged to have committed the crime charged. If there is evidence of other uncharged conduct by the defendant which could also fit within the statutory definition of the crime charged and if the jury is merely instructed regarding the statutory definition of the crime, the defendant may be denied due process by being convicted for a crime different from that charged. *State v. Sherrod*, 131 Idaho 56, 951 P.2d 1283 (Ct. App. 1998). Therefore, in that circumstance the jury instruction should include, in general terms, the description of the conduct alleged in the charging document to constitute the crime charged.

GIVEN

REFUSED

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MODIFIED

COVERED

JUDGE 

ICJI 204 CONCLUDING REMARKS (HOW TO DELIBERATE)

DEFENDANT'S REQUESTED
INSTRUCTION NO. 14

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

GIVEN

REFUSED

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MODIFIED

COVERED

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JUDGE  _____

ICJI 1602 USE OF A FIREARM OR DEADLY WEAPON

DEFENDANT'S REQUESTED
INSTRUCTION NO. 15

Having found the defendant guilty of aggravated assault, you must next consider whether the defendant displayed, used, threatened or attempted to use a deadly weapon in the commission of the crime.

A deadly weapon is any object, instrument or weapon which is capable of producing, and likely to produce, death or great bodily injury.

If you unanimously find beyond a reasonable doubt that the defendant used, displayed, threatened with or attempted to use a deadly weapon in the commission of the above crime, then you must so indicate on the verdict form submitted to you. If, on the other hand, you cannot make such a finding, then you must make that indication on the verdict form.

Comment

The court may consider whether to give this instruction along with instructions on the case in chief, or to allow the jury to deliberate on the case in chief first, and on the firearm enhancement second, depending on the case. *See State v. Stedtfeld*, 108 Idaho 695, 698, 701 P.2d 315 (Ct. App. 1985). Special verdict form ICJI 222 or 224 may be used.

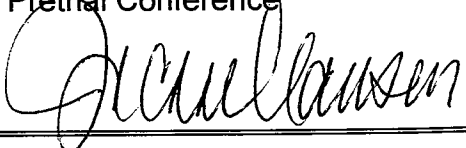
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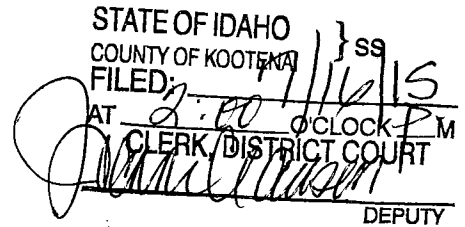
JUDGE

Description	CR 2014-22653 Anderson, Darol 20150715 Pretrial Conference Judge Mitchell Court Reporter Julie Foland Clerk Jeanne Clausen 		
Date	7/15/2015	Location	1K-COURTROOM8
Time	Speaker	Note	
<u>02:07:05 PM</u>	J	Calls case - deft present incustody and represented by Mr. Pierce. Ms. McGovern for the state.	
<u>02:07:39 PM</u>	PA	Motion to continue. Reason is contained in a letter. Victim is in treatment and Dr.'s advice is to not testify because of harming herself. Our office just received the letter from the Dr.	
<u>02:09:23 PM</u>	J	Letter that I'm reading is dated 2/15/15.	
<u>02:09:41 PM</u>	PA	I believe that this is a typo. I just spoke to Dr. Heidenrich's office today.	
<u>02:10:16 PM</u>	PA	I'm largely relying upon the letter from victim's Dr. I will defer to court's discretion.	
<u>02:10:52 PM</u>	DA	Objection. We know exactly where she is and my client has been locked up for quite awhile.	
<u>02:11:44 PM</u>	J	Bindover date is 2/3/15. Denying motion to continue and will start trial on Monday. If I'm reading this letter wrong, and victim released prior to next Monday. If you can't get her out of hospital to come testify, then I would reconsider motion. Motion to continue is denied.	
<u>02:13:32 PM</u>	J	This will be first set for Monday, 7/20/15. Deft's have submitted their proposed jury instruction.	
<u>02:15:19 PM</u>	PA	Will get jury instructions to court tomorrow evening. No pretrial issues.	
<u>02:15:54 PM</u>	DA	Not aware of any pretrial issues.	
<u>04:02:55 PM</u>	J	Back on the record.	
<u>04:03:16 PM</u>	PA	Quick update by the state.	
<u>04:03:28 PM</u>	J	Letter dated 7/15/15.	
<u>04:03:35 PM</u>	PA	The substance of the letter hasn't changed. Dr. Heidenrich will submit an updated letter tomorrow. Otherwise state is prepared to proceed.	
<u>04:04:43 PM</u>	J	We will proceed to trial. I would assume that if it would be in Ms. Messerly's interest to testify earliest in trial as possible. If need to have hearing tomorrow, we can do that sometime. Ordinary position is that after recording goes out at 4:00pm, any change of plea after that if any party changes their position, they will be charged amount to impanel jury.	

<u>04:07:21 PM</u>	PA	Would like phone numbers for the witnesses named on defenses witness list.
<u>04:07:40 PM</u>	J	Client know phone numbers right now.
<u>04:07:59 PM</u>	Deft	I don't know who witnesses are.
<u>04:08:30 PM</u>	End	

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Coeur d'Alene, ID 83816-9000
Telephone: (208) 446-1800
Facsimile: (208) 446-1833



IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

DAROL KEITH ANDERSON,

Defendant.

Case No. CR-F14-22653

**MOTION IN LIMINE TO
DECLARE WITNESS
UNAVAILABLE AND PERMIT
ADMISSION OF PRELIMINARY
HEARING TRANSCRIPT**

COMES NOW, EILEEN J. McGOVERN, Deputy Prosecuting Attorney for Kootenai County, Idaho, and, pursuant to Idaho Rule of Evidence 804(a)(4) hereby moves the above-entitled Court for an Order declaring Erica Messerly an unavailable witness for purposes of trial.

This Motion is based on the attached affidavit of Dr. Eric J. Heidenreich, M.D., who has been treating Ms. Messerly at Kootenai Behavioral Health Center (KBH), and is expressly advising against requiring Ms. Messerly to testify in the above-captioned matter as a result of the potential risk that would pose for her mental health.

Idaho Rule of Evidence 804(a)(4) provides, in relevant part: "Unavailability as a witness" includes situations in which the declarant (4) is unable to be present or to testify at the hearing because of [...] mental illness or infirmity.

The Affidavit of Dr. Heidenreich establishes precisely this fact and justifies a declaration of unavailability on behalf of Ms. Messerly.

In further support of the motion, the State relies on the Idaho Supreme Court decision in State v. Richardson, 156 Idaho 524, 532, 328 P.3d 504, 512 (2014), wherein that court determined that a preliminary hearing transcript may be admitted at trial where a witness had been deemed unavailable, concluding that the opportunity by counsel to cross-examine the unavailable witness at the preliminary hearing satisfied both defendant's sixth amendment right to cross-examination as well as the defendant's ability to adequately prepare for cross-examination. Ultimately the Richardson court determined the "district court erred by determining that a transcript of Bauer's preliminary hearing testimony was inadmissible." State v. Richardson, 156 Idaho 524, 532, 328 P.3d 504, 512 (2014)

Therefore, the State respectfully requests an Order from the Court declaring Ms. Messerly unavailable for trial and permitting the admission of the preliminary hearing transcript prepared in this matter in lieu of her testimony on the stand.

DATED this 16th day of July, 2015.



EILEEN MCGOVERN
Deputy Prosecuting Attorney

BARRY MCHUGH
Prosecuting Attorney
501 Government Way/Box 9000
Coeur d'Alene, ID 83814
Telephone: (208) 446-1800

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
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STATE OF IDAHO,

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Case No. F14-22653

AFFIDAVIT OF ERIC J.
HEIDENREICH, M.D.

STATE OF IDAHO)
 : ss.
 County of Kootenai)

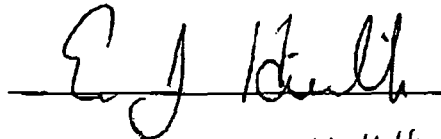
COMES NOW, ERIC J. HEIDENREICH, M.D., and hereby deposes and swears:

1. I am a medical doctor licensed to practice medicine in the State of Idaho, and employed by Kootenai Behavioral Health Center (KBH);
2. That Erica Messerly is currently, and has been a patient at KBH since 6/19/2015;
3. That I have examined Ms. Messerly and have had multiple opportunities to observe her and interact with her over the past few days;
4. I have diagnosed Ms. Messerly with significant mental illness, specifically a co-morbid diagnosis of Post-Traumatic Stress Disorder and Substance Use Disorder;

AFFIDAVIT: Page 1

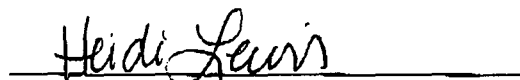
5. Ms. Messerly is discharging from KBH's Chemical Dependency program today and transitioning into a new living environment, which fact has her feeling very emotionally unsteady;
6. Ms. Messerly presents as tearful and emotionally labile;
7. It has been my observation, and that of my staff, that any significant emotional distress typically is followed by Erica decompensating, which in turn, increases her risk for relapse in the context of her addiction to controlled substances;
8. I understand that Ms. Messerly is scheduled to testify in the above-captioned case in the near future;
9. Ms. Messerly's prognosis is poor to begin with and I would anticipate having to testify would result in further deterioration of her current, already fragile condition;
10. Testifying would put Ms. Messerly at substantial risk for relapse on controlled substances and pose a significant risk to her mental health;
11. I emphatically recommend that Ms. Messerly not testify at this time or any in the near future;
12. Further, your Affiant sayeth naught.

DATED this 16th day of July 2015.

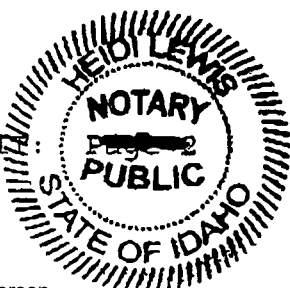


SUBSCRIBED and SWORN to before me on this 15th ^{16th} day of

July, 2015


Notary Public for Idaho
Commission Expires: 8/19/16

AFFIDAVIT:





Kootenai Health

KOOTENAI BEHAVIORAL HEALTH CENTER, KOOTENAI CANCER CENTER
 KOOTENAI MRI, KOOTENAI OUTPATIENT IMAGING KOOTENAI HEART CENTER,
 KOOTENAI CLINICS, BOUNDARY COMMUNITY CLINICS
 2003 Kootenai Health Way, Coeur d'Alene, Idaho 83814; (208) 625-4000

FAX COVER SHEET-
PROTECTED HEALTH INFORMATION
****Confidential****

Date: 7-16-15TO: (Name and Company) Eileen McHosmer, Pres. Off OfficeFAX NUMBER: 446-1840

FROM:

NAME: Dr. "H" PHONE #: (208) 625-4848DEPT.: @.D. FAX NUMBER: _____PATIENT NAME: Erin M.MED. REC.#: _____ NO. OF PAGES 2 Including cover sheet

INFORMATION FAXED: Date of Service: _____

<input type="checkbox"/> Care Plans	<input type="checkbox"/> Consultation	<input type="checkbox"/> Discharge Instructions
<input type="checkbox"/> Disch. Summary	<input type="checkbox"/> ED Record	<input type="checkbox"/> Facesheet
<input type="checkbox"/> H&P	<input type="checkbox"/> Immun. Records	<input type="checkbox"/> Lab Results
<input type="checkbox"/> MARs	<input type="checkbox"/> Nursing Notes	<input type="checkbox"/> Op Reports
<input type="checkbox"/> Orders	<input type="checkbox"/> Pathology Reports	<input type="checkbox"/> Progress Notes
<input type="checkbox"/> Psychiatric Eval	<input type="checkbox"/> Psychological Testing	<input type="checkbox"/> Radiology Reports
<input type="checkbox"/> Rehab Reports	<input type="checkbox"/> Treatment Plan	<input type="checkbox"/> Statement/Bill
<input type="checkbox"/> UR Worksheet	<input type="checkbox"/> EKG	<input checked="" type="checkbox"/> Other <u>Letter Affidavit</u>

MESSAGE: ☒ Urgent ☒ Your Request ☐ For Your Review ☐ Reply Needed

PLACE FAX COVER SHEET IN THE MEDICAL RECORD

CONFIDENTIALITY NOTICE: The document(s) accompanying this facsimile transmission contain(s) confidential information belonging to the sender, which is legally privileged. The information is legally intended only for the use of the individual or entity stated on this form. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone (collect, if necessary) to arrange for disposition of the documents.

Behavioral Health: This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR, part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

898888-080

Description	CR14-22653 Anderson, Darol 20150716 Status Conference Judge Mitchell Court Reporter Julie Foland Clerk Jeanne Clausen		
Date	7/16/2015	Location	1K-COURTROOM8
Time	Speaker	Note	
<u>02:01:01 PM</u>	J	Calls case - Ms. Gardner present for the state. Ms. Brooks present on telephone for defendant. Letter from Dr. Heindenrich on behalf of the victim.	
<u>02:01:45 PM</u>	DA	I haven't read the letter yet.	
<u>02:01:54 PM</u>	J	Reads letter on the record. Motions to be made by plaintiff?	
<u>02:02:29 PM</u>	PA	Not necessarily contemplating a continuance, but maybe a delay until Wednesday. We received an affidavit from Dr. Heindenrich. Grounds to declare that this witness is unavailable. If begin on Monday, other victims can testify. Motion to continue until Wednesday.	
<u>02:05:20 PM</u>	DA	If Ms. Messerly can't testify, then there is nothing different than having her testify on Monday or Wednesday. Would like to have her preliminary hearing transcript be entered. My client's custody status is also a concern.	
<u>02:06:41 PM</u>	PA	The transcript from preliminary hearing will need some redaction. Will try and agree to what needs to be redacted. Recalls several statements made not in response to any questions by defendant. Sounds like a while before victim can testify.	
<u>02:08:05 PM</u>	J	Will start this trial at 9:00am on Monday. Counsel be here by 8:30am. Will resume with argument on preliminary hearing transcript. My calendar is always problematic. Will have to begin this trial on Monday. Keep it set and meet in a different courtroom for pretrial issues at 8:30am.	
<u>02:10:10 PM</u>	PA	Nothing further.	
<u>02:10:14 PM</u>	DA	Nothing further.	
<u>02:10:18 PM</u>	End		

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RUSH

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:

2015 JUL 17 PM 3:04

CLERK DISTRICT COURT

DEPUTY

BARRY MCHUGH
Kootenai County Prosecuting Attorney
501 N. Government Way/P.O. Box 9000
Coeur d'Alene, ID 83816-9000
Telephone Number: (208) 446-1800
Fax Number: (208) 446-1833

ASSIGNED ATTORNEY: Eileen McGovern

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

DAROL KEITH ANDERSON,

Defendant.

CASE NO. **CR F14-22653**

PLAINTIFF'S REQUESTED
JURY INSTRUCTIONS

The Plaintiff herein respectfully submits the following jury instructions in addition to the Court's general instructions on the law.

DATED this 16th day of July, 2015.

BARRY MCHUGH
Kootenai County Prosecuting Attorney



Eileen McGovern
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of July, 2015, a true and correct copy of the foregoing was caused to be delivered as follows: ☐ mailed ☒ faxed ☐ hand delivered ☐ emailed ☐ JusticeWeb


Conflict Public Defender
J. Lynn Brooks
FAXED 208-665-0220



PLAINTIFF'S REQUESTED
INSTRUCTION NO. 6

The kind and degree of force which a person may lawfully use in self-defense is limited by what a reasonable person in the same situation as such person, seeing what he sees and knowing what he knows, then would believe to be necessary. Any use of force beyond that is regarded by the law as excessive. Although a person may believe that he is acting, and may act, in self-defense and/or defense of another, he is not justified in using a degree of force clearly in excess of that apparently and reasonably necessary under the existing facts and circumstances.

Given _____ ✓
Refused _____
Modified _____
Covered _____

JUDGE  _____

Our law provides that "no act committed by a person while in a state of voluntary intoxication is less criminal by reason of his having been in such condition."

CITATION: ICJI 1503

Given _____ ✓ ✓
 Refused _____
 Modified _____
 Covered _____

JUDGE

Δ objects - not applicable.
 π - elicited to by Preston.

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 8

YOU ARE INSTRUCTED that a "traumatic injury" is defined as a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature caused by physical force.

CITATION: IC §18-918

Given ✓
Refused
Modified
Covered

JUDGE Jn

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 9

In order for the defendant to be guilty of AGGRAVATED ASSAULT as charged in
COUNT II, the state must prove each of the following:

1. On or about 6th day of September, 2014;
2. in the State of Idaho;
3. DAROL KEITH ANDERSON committed an assault upon Erica Messerly;
4. by threatening Erica Messerly with a knife, and
5. the defendant committed that assault with a deadly weapon or instrument.

If any of the above has not been proven beyond a reasonable doubt, then you must find
the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you
must find the defendant guilty.

Citation: ICJI 1205

Given ✓
Refused
Modified
Covered

JUDGE Jn

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 10

YOU ARE INSTRUCTED that the defendant, DAROL KEITH ANDERSON, is charged with the crime of AGGRAVATED ASSAULT as charged in Count II, alleged to have been committed as follows: that the defendant, DAROL KEITH ANDERSON, on or about the 6th day of September, 2014, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word and/or act to do violence upon the person of Erica Messerly, with a deadly instrument, to-wit: a knife, which created a well-founded fear in Erica Messerly that such violence was imminent. To this charge, the defendant has pled not guilty.

Citation: I.C. 18-901, 18-905(a)

Given _____
Refused _____ ✓
Modified _____
Covered _____ ✓

by Ct 2

JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 11

An "assault" is committed when a person:

- (1) unlawfully attempts, with apparent ability, to commit a violent injury on the person of another; or
- (2) intentionally and unlawfully threatens by word or act to do violence to the person of another, with an apparent ability to do so, and does some act which creates a well-founded fear in the other person that such violence is imminent.

Citation: ICJI 1201

Given ✓
Refused
Modified
Covered

JUDGE ja

Δ subject, (1) not applicable - not pled.

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 12

Having found the defendant guilty of aggravated assault, you must next consider whether the defendant displayed, used, threatened or attempted to use a deadly weapon in the commission of the crime.

A deadly weapon is any object, instrument or weapon which is capable of producing, and likely to produce, death or great bodily injury.

If you unanimously find beyond a reasonable doubt that the defendant used, displayed, threatened with or attempted to use a deadly weapon in the commission of the above crime, then you must so indicate on the verdict form submitted to you. If, on the other hand, you cannot make such a finding, then you must make that indication on the verdict form.

Citation: ICJI 1602

Given ✓
Refused
Modified
Covered

JUDGE

~~Asks~~ No objection

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 13

YOU ARE INSTRUCTED that the defendant, DAROL KEITH ANDERSON, is charged with the crime of Attempted Strangulation alleged to have been committed as follows: that the Defendant, DAROL KEITH ANDERSON, on or about the 6th day of September, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully choke and/or attempt to strangle the person of Erica Messerly, to-wit: by squeezing her neck with his hands, and where Erica Messerly and the Defendant are household members or have or had a dating relationship. To this charge the defendant has pled not guilty.

CITATION NO. 18-923

Given _____
Refused _____ ✓
Modified _____
Covered _____ ✓

gcb#2



JUDGE

In order for the defendant to be guilty of ATTEMPTED STRANGULATION, as charged in COUNT III, the state must prove each of the following:

- If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

Given ✓
 Refused
 Modified
 Covered

JUDGE

Δ say Infund on Court III

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 15

YOU ARE INSTRUCTED no injuries are required to prove attempted strangulation. The State is not required to show that the defendant intended to kill or injure the victim. The only intent required is the intent to choke or attempt to strangle.

CITATION NO. 18-923(2), (3)

Given _____
 Refused _____
 Modified _____
 Covered _____

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 16

YOU ARE INSTRUCTED that persons are "household members" if they are cohabitating, regardless of whether they have married or hold themselves out to be husband and wife.

CITATION NO. 18-923(4); 18-918(1)(a)

Given ☒
Refused ☒
Modified ☐
Covered ☐

Use IT's # 3 a heavily given

Jr
JUDGE

PLAINTIFF'S REQUESTED


INSTRUCTION NO. 17

It is alleged that the crime charged was committed "on or about" a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

CITATION NO. ICJI 208 19-1414; State v Mundell, 66 Idaho 297, 158 P.2d 818 (1945).

Given _____
Refused _____ ✓
Modified _____
Covered _____ ✓

etc # 16

JUDGE _____


AMENDED PLAINTIFF'S REQUESTED
INSTRUCTION NO. 14

In order for the defendant to be guilty of ATTEMPTED STRANGULATION, as charged in COUNT III, the state must prove each of the following:

1. On or about the 6th day of September, 2014;
2. in the state of Idaho;
3. the defendant, DAROL KEITH ANDERSON, did choke and/or attempt to strangle Erica Messerly, to wit: by squeezing her neck with his hands;
4. willfully and unlawfully; and
5. Erica Messerly and the Defendant were household members at the time of the offense and/or a person with whom DAROL KEITH ANDERSON had a dating relationship, either at the time of the offense or at a previous time.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

CITATION NO. ICJI 1214

Given _____
Refused _____
Modified _____
Covered _____

JUDGE

ICJI 222 VERDICT FORM -- MULTIPLE COUNTS AND SPECIAL CIRCUMSTANCE

INSTRUCTION NO. 25

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,	)	Case No. F14-22653
)	
Plaintiff,	)	VERDICT
)	
vs.)	
)	
DAROL KEITH ANDERSON,)	
)	
Defendant.)	
_____)	

Count II Part II Question

Did **DAROL KEITH ANDERSON** personally use a knife in the commission of Aggravated Assault, the crime of which you have found him guilty?

YES: _____ NO: _____

Dated this _____ day of _____, 2015.

Presiding Officer

Comment

Use this verdict form with ICJI 221. This verdict form can and should be modified to reflect all included offenses, counts and special circumstances. This verdict form should not be used to determine special circumstances which require a bifurcated trial, e.g., felony DUI. See ICJI 1008 and ICJI 1009.

ICJI 222 VERDICT FORM -- MULTIPLE COUNTS AND SPECIAL CIRCUMSTANCE

INSTRUCTION NO. 26

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,	)	Case No. F14-22653
)	
Plaintiff,	)	VERDICT
)	
vs.)	
)	
DAROL KEITH ANDERSON,)	
)	
Defendant.)	
_____)	

Count V Part II Question

Did **DAROL KEITH ANDERSON** personally use a metal pipe in the commission of Aggravated Assault, the crime of which you have found him guilty?

YES: _____ **NO:** _____

Dated this _____ day of _____, 2015.

Presiding Officer

Comment

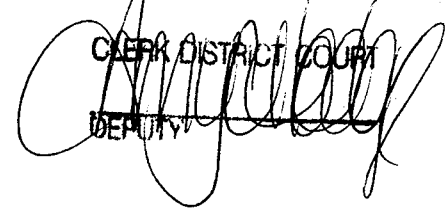
Use this verdict form with ICJI 221. This verdict form can and should be modified to reflect all included offenses, counts and special circumstances. This verdict form should not be used to determine special circumstances which require a bifurcated trial, e.g., felony DUI. See ICJI 1008 and ICJI 1009.

BARRY MCHUGH
Kootenai County Prosecuting Attorney
501 N. Government Way/P.O. Box 9000
Coeur d'Alene, ID 83816-9000
Telephone Number: (208) 446-1800
Fax Number: (208) 446-1833

Assigned Attorney
Eileen McGovern, *Deputy Prosecuting Attorney*

STATE OF IDAHO } SS
COUNTY OF KOOTENAI
FILED:

2015 JUL 17 PM 3:09

CLERK DISTRICT COURT
DEPUTY


IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,
vs.
DAROL KEITH ANDERSON
Defendant.

Case No. CRF14-22653

**PLAINTIFF'S AMENDED
WITNESS LIST**

The Plaintiff may call the following witnesses at trial, although not necessarily in the same order as listed.

Alan Winstead, 3818 N. Schreiber Way Coeur d Alene, ID 83814
Nicholas Lowry, 3818 N. Schreiber Way Coeur d Alene, ID 83814
Spencer Mortensen, 3818 N. Schreiber Way Coeur d Alene, ID 83814
JAMES LLOYD CRILE, 2834 N 14TH ST COEUR D'ALENE, ID 83815
AMY TERESE RECIO, 2834 N 14TH ST COEUR D'ALENE, ID 83815
LAWRENCE MICHAEL PRESTON, 1416 E. Stiner Ave. Coeur d'Alene, ID 83815
ERICA JEAN MESSERLY, 612 W HAYCRAFT AVE COEUR D'ALENE, ID 83815

The State reserves the right to supplement discovery as it becomes available.

DATED this 17th day of July, 2015.

BARRY MCHUGH
Kootenai County Prosecuting Attorney


Eileen McGovern
Deputy Prosecuting Attorney

PLAINTIFF'S AMENDED WITNESS LIST

Page 1 of 2

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of July, 2015, a true and correct copy of the foregoing was caused to be delivered as follows: ☐ mailed ☒ faxed ☐ hand delivered ☐ emailed ☐ JusticeWeb

Conflict Public Defender
J. Lynn Brooks



STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: SS

2015 JUL 20 AM 9:32

CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO
FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

DAROL KEITH ANDERSON,

Defendant.

Case No. CR-F14-22653

**ORDER DECLARING WITNESS
UNAVAILABLE**

The Court having before it the State's Motion to Declare Witness Unavailable, and good cause appearing now, therefore,

IT IS HEREBY ORDERED that Erica Messerly, a necessary witness in the State's case, is declared UNAVAILABLE;

IT IS FURTHER ORDERED the State may admit the transcript of the Preliminary Hearing prepared in this matter in lieu of Ms. Messerly's testimony on the stand.

ENTERED this 20th day of July, 2015.


DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

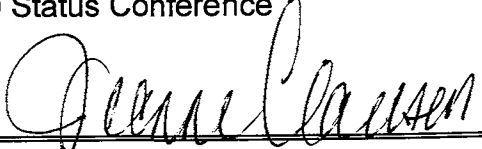
I hereby certify that on the 20 day of July, 2015, copies of the foregoing document(s) were mailed, postage prepaid, or sent by facsimile or inter office mail to:

X Deputy Prosecuting Attorney for Kootenai County FAX 208-446-1833 ✓
____ Defense Counsel Kootenai County Public Defender FAX 208- 446-1701
X Defense Counsel FAX Lynn Brooks
____ Defendant
____ Kootenai County Sheriff's Department FAX 208-446-1407
____ Idaho Probation & Parole FAX 208-769-1481
____ Idaho Department of Correction FAX 208-327-7445
____ CCD Sentencing Team FAX 208-658-2186
____ Idaho Department of Transportation FAX 208-334-8739
____ Community Service Interoffice Mail or FAX 208-446-1193
____ Auditor Interoffice Mail or FAX 208-446-1662
____ BCI (Bureau of Criminal Investigation) FAX 208-884-7193
____ Kootenai County Law Library/Transcription FAX 208-446-1187

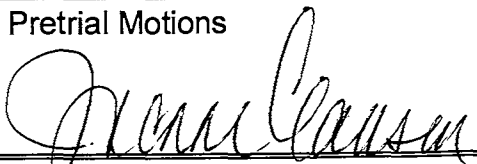
JIM BRANNON
CLERK OF THE DISTRICT COURT

By: _____

Deputy Clerk

Description	CR 2014-22653 Anderson, Darol 20150720 Status Conference Judge Mitchell Court Reporter Kim Hannan Clerk Jeanne Clausen 		
Date	7/20/2015	Location	1K-COURTROOM10
Time	Speaker	Note	
<u>09:37:51 AM</u>	J	Calls case - deft present incustody and represented by Ms. Brooks. Ms. McGovern and Ms. Gardner present for the state.	
<u>09:37:57 AM</u>	J	Back on the record.	
<u>09:38:03 AM</u>	DA	My client has told me he doesn't want to be present in court room against my advice. After I informed the bailiff that we needed to put this on record, he changed his mind.	
<u>09:38:52 AM</u>	Deft	I plead the 5th	
<u>09:38:57 AM</u>	J	Under Rule 43(b) - the defendant doesn't need to be present.	
<u>09:39:49 AM</u>	J	43(b) continued presence is not required. Previously been warned by court about disorderly conduct. I can do one of three things; 1) Bind and gag deft, 2) - find him in contempt and 3) Send him out of courtroom until he behaves or he doesn't need to be present.	
<u>09:41:07 AM</u>	Deft	Apologize for my actions. I would like to be present at my trial.	
<u>09:41:24 AM</u>	J	If you ever disrupt the proceedings, I will have you removed from the courtroom. You won't be brought back in. You have no further opportunities to misbehave. If you do, you will be removed.	
<u>09:42:09 AM</u>	Deft	I understand.	
<u>09:42:16 AM</u>	End		

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Description	CR 2014-22653 Anderson, Darol 20150720 Pretrial Motions Judge Mitchell Court Reporter Kim Hannan Clerk Jeanne Clausen 		
Date	7/20/2015	Location	1K-COURTROOM10
Time	Speaker	Note	
<u>08:40:54 AM</u>	J	Calls case - deft present and represented by Ms. Brooks. Ms. McGovern and Ms. Gardner for the state. Pretrial motions.	
<u>08:40:59 AM</u>	J	Pltf #2 - given; #3, 4 - given; #5 - defense of others is not an issue. Deft #8 - given. Refusing pltf #5. #6 - given; #7 - given; #8 & 9 - given; #10 - refused; #11 & 12 - given; #13 - refused. #14 & 15 & 16 - given. #17 - refused; #18 - given; 19 - refused; 20 - given; #21 - given.	
<u>08:43:40 AM</u>	J	Deft's instructions - #1 - refused; #2 - 1st para is refused & #2 paragraph not under 105.	
<u>08:45:30 AM</u>	DA	Yes it is. It is under 105.	
<u>08:45:40 AM</u>	J	Paragraph #2 is permitted. 2nd paragraph of deft #2 will be it's own instruction. #4 - given; 5 - given; 6 - refused ICJI 1277 description of conduct need to be there. #7 - given; #8 - given; #9 - refused; 1206 is a separate instruction. 2nd sentence isn't included in 1602. #10 - refused; #11 - refused; #12 - refused; #13 - refused; #14 - refused.	
<u>08:49:36 AM</u>	J	Unavailability issues.	
<u>08:50:06 AM</u>	PA	Calls Lisa Bunker. Directs	
<u>08:50:21 AM</u>	Lisa Bunker	Employed by Kootenai Health. Manager of chemical dependency unit. I've been working in mental health field for over 20 years. I've worked for KBH for 3 years. I'm familiar with Erica Messerly. Dr. Eric Heindenrich is the psychiatrist for Ms. Messerly. I have spoken to him about Ms. Messerly. Dr. Heindenrich has given her the Kootenai Health diagnosis. My diagnosis is substance abuse disorder and post traumatic stress disorder. She has had periods for longer than the normal 3 weeks. Date of her last discharge was last Thursday. I was able to make personal contact with her there. I don't feel that it is not appropriate for her to testify at this time. She has a fragile mental state and she needs to stabilize more. To soon in her recovery. Have her on the right meds. Explains decompensation. Providing testimony to create decompensation.	
<u>08:55:16 AM</u>	DA	Objection speculation and foundation.	
<u>08:55:26 AM</u>	J	overruled.	
<u>08:55:33 AM</u>	Lisa	Hope that she stabilizes.	

<u>08:56:02 AM</u>	DA	Foundation, speculation.
<u>08:56:08 AM</u>	J	Sustained on ambiguous state. Overruled on foundation.
<u>08:56:26 AM</u>	Lisa	Hope mental health providers can weigh in on her mental health status.
<u>08:57:01 AM</u>	DA	Objection speculation.
<u>08:57:06 AM</u>	J	Overruled.
<u>08:57:09 AM</u>	Lisa	Revisiting this type of trauma could give her decompensation at any time. Dr. Heindenrich would like this hearing continued without her testifying. I share in this belief.
<u>08:58:33 AM</u>	DA	Speculation and foundation.
<u>08:58:41 AM</u>	J	Overruled.
<u>08:58:45 AM</u>	Lisa	I feel that this shouldn't be heard within 90 days.
<u>08:59:12 AM</u>	DA	Cross
<u>08:59:15 AM</u>	Lisa	Ms. Messerly has been admitted on more than one occasion. I've seen her twice in last 3 years. She was diagnosed with PTSD prior to 1/1/15.
<u>09:00:31 AM</u>	Deft	I want to ask the witness questions. I want to fire my counsel.
<u>09:00:51 AM</u>	J	I will have you removed from this courtroom if you don't be quite.
<u>09:01:14 AM</u>	Deft	I want to fire my counsel.
<u>09:01:22 AM</u>	J	Out of the courtroom. I won't have you disrupt your own trial.
<u>09:03:10 AM</u>	PA	Appears that Ms. Messerly won't be available to testify based upon testimony by Lisa Bunker and affidavit from Dr. Heindenrich. Reviews case law. 6th amendment right to confrontation clause. State vs. Richardson. Supreme court overruled District Court decision. Confrontation right wasn't violated. Presents to court a redacted copy of Preliminary Hearing transcript. She is unavailable to her PTSD. She did testify at the preliminary hearing, but it was a struggle. Not too long after that, she needed help with her mental health. Duration of unavailability. State vs Perry. Looking at at least 90 days continuance. PH transcript be deemed admitted and be allowed to be used as testimony in this jury trial.
<u>09:07:10 AM</u>	DA	State has to establish that Ms. Messerly isn't available. State has burden - 804(a)(4). Witness is able to be physically present. Disorders are PTSD and SA disorder. She already testified in January, 2015. Defense didn't have fair opportunity to cross examine her at that hearing. I received an unsigned affidavit from Dr. Heidenrich. Given 3 different letters. 7/15/15 - could be a matter of weeks before Ms. Messerly is able to testify in court. She because she doesn't want to testify, doesn't mean that she is not able to testify. State vs. Backshaw. State vs. Button. All we have seen today is the state's efforts to get transcript admitted and not

		the victim. This witness could be available in a reasonable amount of time. This trial could be continued until Ms. Messerly is able to testify. Preliminary hearing took place quickly after charges were filed. Not an adequate opportunity to cross examination Ms. Messerly. There is information that she made false allegations against deft before. Allegations against her ex-husband in past.
<u>09:15:07 AM</u>	PA	Mental health concerns aren't going to resolve itself anytime soon. She should be deemed unavailable. Several breaks that had to be taken and a difficult process. I began diligently making contact with Ms. Messerly 4 weeks prior to this hearing. State has made significant efforts.
<u>09:15:22 AM</u>	t	
<u>09:18:22 AM</u>	J	Find that Ms. Messerly is unavailable. I have an affidavit signed by Dr. Heindenrich and it is complete. Ms. Bunker has testified in detail. Continuance of this trial is not appropriate.
<u>09:19:18 AM</u>	DA	Speedy trial runs in October.
<u>09:19:28 AM</u>	J	No indication that Ms. Messerly would be available between now and October. Reviews case law. Deft refuses to waive right to speedy trial which is his right. I read PH transcript. Ms. Messerly had difficulty throughout the proceeding. I thought there was very through cross examination of Ms. Messerly by Ms. Brooks. Seems to be unfair to witness and alleged victim when it is possible conduct had something to do with instability. Not finding unavailability is due to Mr. Anderson's actions back on 9/6/14. 804 (a)(4) - continuance is not a practical option. Opportunity to try and meet with your client Ms. Brooks.
<u>09:23:56 AM</u>	DA	Not sure how this is going to be utilized. I haven't seen the redacted copy.
<u>09:24:34 AM</u>	J	Someone will read transcript and won't given as an exhibit.
<u>09:25:13 AM</u>	DA	Concerns with someone from prosecutor's office reading. Unfair because it is an agent of the State - could sway the jury.
<u>09:25:51 AM</u>	J	Overruled.
<u>09:26:09 AM</u>	PA	2nd motion in limine - request exclusions of hearsay statements. Preclude photo evidence. Have never seen photographs. 404(b) evidence with interactions between deft & witness. Not to reference the victim's mental health status.
<u>09:27:46 AM</u>	DA	I was ambushed with this motion.
<u>09:28:05 AM</u>	End	

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Description	CR 2014-22653 Anderson, Darol 20150720 Jury Trial - 1st Day Judge Mitchell Court Reporter Kim Hannan Clerk Jeanne Clausen		
Date	7/20/2015	Location	1K-COURTROOM9
Time	Speaker	Note	
<u>09:47:23 AM</u>	J	Calls case - deft present and represented by Ms. Brooks. Ms. McGovern and Ms. Gardner for the state. Jury Trial	
<u>09:48:34 AM</u>	J	Introduces court staff.	
<u>09:54:15 AM</u>	J	Introduces parties. Reads information.	
<u>09:59:57 AM</u>	J	Calls initial potential 27 jurors.	
<u>10:01:18 AM</u>	Bailiff	Jurors - 5,9,10,22,38 & 42 are absent.	
<u>10:09:54 AM</u>	J	Explains voir dire.	
<u>10:14:05 AM</u>	Clerk	Gives voir dire oath.	
<u>10:14:27 AM</u>	J	Voir dired.	
<u>10:17:11 AM</u>	J	Juror #31 excused. Excuses #35. #61 is excused.	
<u>10:28:53 AM</u>	Ms. McGovern	Voir dire. Motion to excuse #37 for cause.	
<u>11:30:11 AM</u>	J	Excuses juror #37	
<u>11:31:30 AM</u>	Ms. McGovern	Continues voir dire.	
<u>11:35:59 AM</u>	J	Instruction re: deposition.	
<u>11:37:18 AM</u>	Ms. McGovern	Pass panel for cause.	
<u>11:37:47 AM</u>	Ms. Brooks	Voir Dired. Motion to excuse juror #55 for cause.	
<u>11:48:00 AM</u>	J	Juror #55 excused for cause.	
<u>11:48:40 AM</u>	Ms. Brooks	Continues voir dire. Passes panel for cause.	
<u>11:52:08 AM</u>	J	Admonishes jury. Preemptory challenges.	
<u>12:01:10 PM</u>	J	Back on the record. Early on during my questioning, bailiff made me aware that deft was holding up tablet.	
<u>12:01:52 PM</u>	Bailiff	Held up a note pad stating they won't let me speak freely.	
<u>12:02:12 PM</u>	J	Bailiff told me deft raised his tablet again. Was also told that deft was raising his hands and could see his ID tag from the jail. I signed an order allowing deft to wear street clothes to not let jurors see that he is in custody.	
<u>12:03:37 PM</u>		At one time saw the ID tag and he made some facial	

	PA	expressions. A bible was also on the table. With the record made by the court, state is satisfied. At this time his demeanor is appropriate.
<u>12:04:25 PM</u>	DA	Cured the ID tag. No problem with the bible being on the defense table.
<u>12:04:50 PM</u>	J	Hearing no motion, I see no problem with bible being on the defense table.
<u>12:05:09 PM</u>	PA	Opening argument will be about 10 min.
<u>12:05:24 PM</u>	DA	I will reserve argument
<u>12:06:58 PM</u>	J	Back on the record with the jury present. Calls 13 jurors for the panel - #17, 16, 33, 52, 11, 30, 14, 23, 24, 68, 41, 49 and 58.
<u>12:09:18 PM</u>	PA	Agrees this is the jury.
<u>12:09:23 PM</u>	DA	Agrees this is the jury.
<u>12:09:29 PM</u>	J	Excuses the remaining potential jurors.
<u>12:13:29 PM</u>	J	Reads initial jury instructions.
<u>12:28:21 PM</u>	Ms. Gardner	Opening statement.
<u>12:34:43 PM</u>	Ms. Brooks	Reserves opening statement.
<u>12:35:42 PM</u>	J	Admonishes jury. Recess.
<u>12:36:26 PM</u>	PA	I would like to see what the jury may have seen off of Mr. Anderson's note pad.
<u>12:37:40 PM</u>	J	Look at client's notepad, find anything that was written in big block letters, show them to opposing counsel. They will be marked as court's exhibits 1, 2 & 3.
<u>12:41:01 PM</u>	PA	2nd motion in limine.
<u>12:41:08 PM</u>	DA	This motion shouldn't be considered because of late notice.
<u>12:41:23 PM</u>	PA	Response - state wasn't aware that there are photographs. Objection to any photographs if they are going to be presented by defense. Any 404(b) evidence to be discussed prior to it being brought forward.
<u>12:44:31 PM</u>	DA	On the timing issue of motion - state should've known about when I filed my witness. Rule 16 doesn't require that phone #'s be given. I don't have any photos. State was served with police report from Mineral County Sheriff. 6/29/15 was when I filed my witness. 7/10/15 for my amended witness list.
<u>12:46:35 PM</u>	J	7 days is not required. I don't find that any of these motions in 2nd motion in limine to be untimely. They have to be raised prior to trial. Timeliness objection is overruled.
<u>12:48:08 PM</u>	PA	Defer to court.

<u>12:48:31 PM</u>	DA	Preclusion of hearsay statements - excited utterance. #2 is moot. Preclusion of 404(b) evidence - defendant has the right to a fair trial. A blanket prohibition in advance is in appropriate. No objection to preclusion of evidence of witness unavailability.
<u>12:50:23 PM</u>	PA	State trying to avoid self serving statements. 404(b) evidence -
<u>12:51:46 PM</u>	J	Granting 1(1) preclusion of hearsay statements. Defendant will have to notify court that it intends to do so and then will have to lay foundation outside presence of jury. #2 - granted. defendants stated they aren't going to submit and photos. #3 - 404(b) evidence - won't come in in the presence of jury. #4 is granted.
<u>12:54:47 PM</u>		There was no elements instruction in defendant's instruction, provides one.
<u>12:55:06 PM</u>	Ms. McGovern	Unsure about 404(b) evidence.
<u>12:55:14 PM</u>	J	Will have to let the court know when this will be coming up and will discuss outside presence of jury.
<u>12:55:40 PM</u>	J	Recess
<u>01:45:10 PM</u>	J	Back on the record without the jury.
<u>01:46:19 PM</u>	J	Civil Jury Instruction 1.22 - will give this one.
<u>01:53:01 PM</u>	Ms. McGovern	No objection
<u>01:53:07 PM</u>	DA	No objection.
<u>01:58:43 PM</u>	J	Back on the record with the jury present.
<u>01:58:57 PM</u>	Deft	I want to fire my attorney.
<u>01:59:04 PM</u>	J	You'll have to have a seat.
<u>01:59:11 PM</u>	Deft	I want to fire my attorney.
<u>01:59:36 PM</u>	J	You'll have to have a seat.
<u>01:59:46 PM</u>	Ms. McGovern	Calls Lawrence Preston. Directs.
<u>02:00:08 PM</u>	Lawrence Preston	I reside on Stiner. I had resided there for approx 5 months before this incident. Darol Anderson was my neighbor at the time. I had gotten to know him in passing.
<u>02:01:28 PM</u>	DA	Objection relevance.
<u>02:02:38 PM</u>	Ms. McGovern	Testimony on Mr. Preston shows some knowledge about defendant, his demeanor and how it was different on date of incident than prior.
<u>02:03:24 PM</u>		We need to take this outside presence of jury. Don't need to

	DA	expose jury to arguments.
<u>02:03:59 PM</u>	J	Make arguments of record before jury.
<u>02:04:08 PM</u>	DA	Asking things about defendant prior to 9/6/14.
<u>02:04:54 PM</u>	J	Relevance objection is overruled. Preliminary foundational matter. This doesn't have anything to do with the motion in limine ruling court made earlier.
<u>02:05:34 PM</u>	Lawrence Preston	I would see him before and after I went to work. I know Erica Messerly. She was living with Mr. Anderson at the time and was also my neighbor. I would only see her in passing. I heard a little bit of ruckus and then some screaming on date of incident. I opened front door and witnessed Mr. Anderson & Ms. Messerly in a confrontation. Yelling and screaming went on for about a minute or so. He had her bent over, holding her hair and punching her in the head and face with a closed fist. I intervened after a minute or so. I went outside and stopped the fight and made her, some children and another woman go into house with my girlfriend. Both parties were shouting.
<u>02:09:23 PM</u>	DA	Objection - hearsay.
<u>02:09:29 PM</u>	Ms. McGovern	Excited utterance. Ms. Messerly was bent over and screaming for help and was under stress. Rule is 803(2).
<u>02:11:00 PM</u>	DA	Court's discretion.
<u>02:12:03 PM</u>	J	State vs. Francis. Foundation had been laid. Overruled.
<u>02:12:28 PM</u>	Lawrence Preston	Ms. Messerly was yelling for help. I didn't hear Mr. Anderson yelling anything. I was 30ft away when I opened my door. 3 young children were present between 8 - 12 years. They were in the yard. Another woman was also present. Mr. Anderson had a lot of rage, very erratic and I hadn't seen this from him before. I called police while Mr. Anderson was still present. He then got into his vehicle. He attempted fleeing and almost hit me and one of my vehicles while backing up. After this he did stopped vehicle. He couldn't make any eye contact with me, shaky and slurred in speech. My former wife was an addict in recovery. I had observed her under influence of narcotics and I recognized some of the same symptoms in Mr. Anderson. When he got out of vehicle, he tried to justify why he was hitting Erica and shouldn't go to jail. He got back into vehicle and I chased him for a few blocks. I wanted to be able to be give an accurate description of what he was wearing and driving. He was hitting Erica like he wanted to hurt her.
<u>02:18:56 PM</u>	DA	Objection relevance.
<u>02:20:13 PM</u>	J	Objection is overruled.
<u>02:20:22 PM</u>	Lawrence Preston	Children were crying, shaking and scared. I went back to my residence. I observed multiple injuries. Described injuries to Erica. Red marks and bruising on her arms and wrists.

02:22:28 PM	DA	Cross
02:22:40 PM	Lawrence Preston	I didn't make a written statement to police. I observed Ms. Messerly trying to grab cellphone from Mr. Anderson. One of children belonged to Erica. Mr. Anderson's eyes were darting back and forth. I was inches away from his face.
02:25:30 PM	Deft	Started to ask questions of Mr. Preston.
02:25:46 PM	J	This is your last warning.
02:25:56 PM	Deft	Violations of my rights.
02:26:12 PM	J	Excuses jury & admonishes.
02:26:33 PM	J	Order that Mr. Anderson be taken to hold and don't expect to bring you back based upon your actions in court up till now.
02:27:12 PM	DA	Motion for mistrial. My concerns that his mental status is questionable. Mr. Anderson not competent to stand trial.
02:28:13 PM	J	This is first time I have heard about his mental state. This is of his own making and now he can't take advantage of this.
02:29:03 PM	DA	18-211 & 18-210 was done.
02:29:14 PM	J	I disagree with you. Nothing that would make me think that he doesn't know what he was doing.
02:30:50 PM	J	Back on the record with jury present. ICR 43 - appropriate thing to do is to proceed without Mr. Anderson.
02:31:39 PM	Ms. McGovern	Redirect.
02:31:55 PM	Lawrence Preston	I told police what I had seen, but made no written statement.
02:32:21 PM	DA	Objects - State vs Ellington.
02:32:34 PM	Ms. McGovern	Emotional effect on him would be relevant.
02:32:55 PM	J	Emotional state and impact.
02:33:16 PM	Lawrence Preston	Important for me to remember events. The struggle I observed was Mr. Anderson hitting her and Erica trying to defend herself. Put arms around her face and attempting to push away from him.
02:34:26 PM	PA	Calls Spencer Mortensen. Directs
02:35:34 PM	Spencer Mortensen	I have been a police officer with City of Coeur PD. I have had training in domestic violence. I received a call to go to a location. 1410 Stiner, CDA. I went and spoke to Eric Messerly. Erica looked like she was sleep deprived and been through a traumatic situation.
02:37:55 PM	DA	Objection foundation.

<u>02:38:00 PM</u>	J	Overruled.
<u>02:38:04 PM</u>	Spencer Mortensen	I didn't observe Erica being under influence of drugs or alcohol. I observed some injuries on her. Cut on her nose and eyes started to blacken. Cut mark on lower part of her neck.
<u>02:39:24 PM</u>	DA	Objection - vouching for someone's creditability.
<u>02:39:38 PM</u>	J	Overruled.
<u>02:39:43 PM</u>	Spencer Mortensen	Appeared to be a bite mark on her shoulder. Left side and large bruise in form of a circle. Fresh bruised on her forearms. I took photographs at the time. Photos accurately show what I observed that day. Frontal picture of Erica showing mark on nose, bruising. Reviews photos marked 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 & 13
<u>02:45:07 PM</u>	PA	Motion to admit plaintiff's exhibits 1 thru 13.
<u>02:45:29 PM</u>	DA	No objection.
<u>02:45:34 PM</u>	J	Plaintiff's 1 thru 13 are admitted.
<u>02:45:50 PM</u>	DA	Cross
<u>02:45:53 PM</u>	Spencer Mortensen	Reviews page 2 of 8. Victim/offender. Ms. Messerly refused medical attention. I didn't see any popped blood vessels in her eyes. Bruising on interior of her eyes. She appeared to be sleep deprived. The incident carried over for a long period of time. She never passed out or saw stars. She told me deft threatened someone with a metal pipe. I took pictures of the living area of house. Reviews exhibits A, B & C. I took these photos of lower level of house.
<u>02:52:25 PM</u>	DA	Motion to admit A, B & C.
<u>02:52:37 PM</u>	J	A, B & C are admitted.
<u>02:53:06 PM</u>	PA	Objection of relevance.
<u>02:53:17 PM</u>	DA	Goes toward future testimony of Ms. Messerly.
<u>02:54:09 PM</u>	J	Sustaining objection.
<u>02:54:34 PM</u>	Spencer Mortensen	I didn't seen any injuries on back of her head.
<u>02:54:53 PM</u>	PA	Redirect.
<u>02:55:00 PM</u>	Spencer Mortensen	Darol Anderson was primary aggressor.
<u>02:55:20 PM</u>	DA	Objection.
<u>02:55:26 PM</u>	J	Overruled.
<u>02:55:29 PM</u>	Spencer Mortensen	I chose not to take Ms. Messerly into custody because of totally of incident. I have been taught to recognize symptoms of someone having been strangled. She had bruising on side of her neck. I have responded to numerous strangulation

		scenes.
<u>02:58:11 PM</u>	DA	No recross.
<u>02:58:17 PM</u>	Ms. Gardner	At this time state is prepared to read transcript of Erica Messerly.
<u>02:59:33 PM</u>	J	Gives Ms. Malek an oath to read preliminary hearing transcript. Reads instruction. Examination will begin on page 5.
<u>03:02:33 PM</u>	Ms Gardner	Begins on page 5.
<u>03:02:45 PM</u>	Ms. Malek	Begins reading for Eric Messerly. Legally married to Darol Anderson. Fall of 2014 residing together. I kicked him off the bed. I jumped on top of me and started punching me on top of head. He hit me hard. He kept saying "not this again". Page 15 - He punched me in eye. I thought he was going to hit me with a long metal pole. I don't know where he got pole from. He jabbed me in side with the pole.
<u>03:14:20 PM</u>	J	Skip line 6 to line 13.
<u>03:14:39 PM</u>	Ms. Malek	He grabbed knife and stuck it to my throat. It left a cut. He bit me when he had hands around my neck. I had knots all over my head. I had a bruise where he poked me with a pole.
<u>03:19:23 PM</u>	DA	Cross.
<u>03:21:16 PM</u>	Ms. Malek	I hit him a couple of times in head with a closed fist. I know what he did was wrong. I started it, but he shouldn't have done what he did. I went to neighbors house to get away from Darol. Darol threw keys in grass. I went to same neighbor's house twice. Pole didn't come out until after neighbor left. Describes flashlight that I picked up off couch. Darol went to get a knife from kitchen. Went to neighbor's house to get a ride to where my daughter Faith was.
<u>03:34:40 PM</u>	J	That concludes the reading of preliminary hearing transcript.
<u>03:34:59 PM</u>	J	Recess and admonishes jury.
<u>03:35:38 PM</u>	J	Back on the record outside presence of jury.
<u>03:36:01 PM</u>	PA	Wants to amend the misd charge to include in presence of children. Only pertains to count 4. 18-918(4). Doubles the penalties. \$2,000 and 1 year.
<u>03:39:07 PM</u>	J	That's what I told him when I arranged.
<u>03:39:19 PM</u>	DA	Objects to amendment of information. Not able to prepare a defense to that allegation. Right to due process.
<u>03:40:44 PM</u>	PA	State can amend at anytime.
<u>03:41:25 PM</u>	DA	No video made of the actual altercation.
<u>03:45:33 PM</u>	J	Is there a summary of Lawrence Preston's interview with law enforcement that has been disclosed.


<u>03:47:07 PM</u>	DA	No bodycam interview with Mr. Preston. Children were not focus of investigation. No notice to defense that state was going to change this charge.
<u>03:53:59 PM</u>	J	Denying motion to amend. Looked at annotation of summaries. This is an enhancement. State vs Schall. Jury has already been instructed twice now. There is risk of confusing jury and also this is a misd. I don't see a need for the amendment.
<u>03:56:08 PM</u>	PA	State plans on resting.
<u>03:56:16 PM</u>	DA	No motions made outside presence of jury. I believe that my witnesses are here. I reserve my opening statement. Mr. Anderson removed from courtroom, won't be allowed to testify on his own behalf. I don't have a need for an opening statement if Mr. Anderson isn't going to testify.
<u>03:58:26 PM</u>	J	I will allow him to testify on his own behalf.
<u>03:58:38 PM</u>	Deft	I have 3 witnesses. Could Mr. Anderson testify tomorrow morning.
<u>04:00:05 PM</u>	J	Recess for 4 minutes.
<u>04:00:17 PM</u>	J	Back on the record with the jury present.
<u>04:12:39 PM</u>	PA	State rests.
<u>04:12:48 PM</u>	DA	Calls first witness Robert Cook. Directs.
<u>04:13:31 PM</u>	Robert Cook	Familiar with Darol Anderson. He is my biological father. I live in Kootenai County. I saw my father on 9/7/14. I went home on my lunch break. He was on my back porch smoking. I appeared flustered and scared because of his demeanor. He couldn't sit still. He has scratches on his face, arms and chest. He was wearing a wifebeater. He didn't have any hair at the time and so I saw a mark on right side of his head. I talked to him about 25 min. My wife was taking him to his friend Kim's house.
<u>04:17:52 PM</u>	Ms. McGovern	Cross.
<u>04:18:05 PM</u>	Robert Cook	Forearms, collarbone and face. He had claw marks and skin missing. I have been speaking with my father recently.
<u>04:19:24 PM</u>	J	Objection as to relevance and disclosure.
<u>04:23:36 PM</u>	DA	Rule 16(a)
<u>04:23:45 PM</u>	J	Unless you can be more specific Ms. Brooks, I'll overrule that objection as well.
<u>04:24:35 PM</u>	DA	Request for discovery of any statements made by defendant - Rule 16.
<u>04:25:14 PM</u>	Ms.	Evidence at issue is something that wuldn't come to light until

	McGovern	recently. Counsel would have also had access to these statements. We received this information last night.
<u>04:26:18 PM</u>	DA	I don't have same access as the state has. Discovery is ongoing. Any impeachment statements has to be disclosed. I know case does exists, just don't have case name at this time.
<u>04:27:24 PM</u>	J	All objections by defense are overruled.
<u>04:27:34 PM</u>	Robert Cook	I have had phone conversation with my father recently. I don't remember when I went home for lunch day in question 9/7/14. I found him flustered and scared. I didn't tell me he spoke to law enforcement that day. He never mentioned law enforcement might be looking for him.
<u>04:29:02 PM</u>	DA	Calls Shannstelle Beasley. Directs.
<u>04:30:24 PM</u>	Shannstelle Beasley	Robert Cook is my husband. Darol Anderson is my father in law. 9/7/15 I saw Mr. Anderson on that day. I had been home prior to 11:00am - 11:30am. When I first saw him, he was smoking on back porch. We spoke for about and hour to hour and a half. He had scratches on his face and chest. He was scared. Kind of shaking. We left my home together and dropped him off at a friends house, Kim Sego. Police were at my house with Darol's wife Erica. She didn't have any marks on her. She looked perfectly fine and healthy.
<u>04:34:32 PM</u>	PA	Cross.
<u>04:34:38 PM</u>	Shannstelle Beasley	He had scratches on his face and chest. 2:00pm I was still at the house. At 12:00pm I saw Erica. Reviews exhibits 1 thru 13 and marks she has on her surprise me. I let police know where I dropped him off.
<u>04:38:38 PM</u>	DA	Redirect.
<u>04:38:47 PM</u>	Shannstelle Beasley	I did get my times mixed up. I may have dropped Darol Anderson later than I first stated. I dropped him off because he asked me to.
<u>04:41:22 PM</u>	DA	Calls Kimberly Sego. Directs.
<u>04:42:07 PM</u>	Kimberly Sego	I know Darol Anderson because our daughters are friends. I saw him at my house early afternoon. He was there maybe 2 hours. He was confused. He had appeared to have a bite mark on his left cheek. Scratches of his arms and chest.
<u>04:44:42 PM</u>	PA	Cross.
<u>04:44:46 PM</u>	Kimberly Sego	I've been friends with him about 7 years. He was upset when he came to my house. I mentioned that police was looking for him. I don't remember where to ones were on his arms. He had scratches on his face also. All of injuries would've been above chest level.
<u>04:47:29 PM</u>	DA	No redirect.

<u>04:47:39 PM</u>	J	Recess for the day. Admonishes the jury. Believe that this case will be concluded by tomorrow. Will state tomorrow at 8:30am.
<u>04:49:58 PM</u>	J	Back on the record without jury present.
<u>04:50:12 PM</u>	PA	Nothing to add.
<u>04:50:18 PM</u>	DA	Jury instructions - objection is that #3 on instruction - doesn't match pleading. Needs to be amended to match pleading.
<u>04:51:52 PM</u>	PA	No objection.
<u>04:52:06 PM</u>	J	What would change be?
<u>04:52:12 PM</u>	J	"battery was committed by using force and/or violence upon Erica Messerly.
<u>04:54:48 PM</u>	PA	No objection.
<u>04:54:54 PM</u>	DA	No objection.
<u>04:54:59 PM</u>	DA	Pltlf's #4 - definitions of battery - count 1, charging language just uses on of the ways. State should not be able to use alternative methods when it is not plead that way.
<u>04:55:56 PM</u>	Ms. McGovern	Multiple incidences of battery in this case. Appropriate to give this instruction.
<u>04:56:38 PM</u>	J	I understand you objection Ms Brooks, but count #4
<u>04:57:11 PM</u>	PA	Court consider amending count 4 in the information.
<u>04:57:44 PM</u>	DA	I have no objection to adding to whit by pulling her hair and punching her.
<u>04:58:08 PM</u>	J	Amendment is granted. My instruction 4 will be given, but the objection will be noted.
<u>04:58:47 PM</u>	DA	We need to have a unanimity instruction. I can get you instruction and e-mail it to everyone. Instruction #7 isn't acquit. No testimony indicating intoxication.
<u>05:00:21 PM</u>	PA	Eluded to by Mr. Preston. Jury could consider this.
<u>05:01:00 PM</u>	DA	There hasn't been a record made of voluntary intoxication.
<u>05:01:21 PM</u>	J	There was some evidence of intoxication and instruction is appropriate.
<u>05:03:24 PM</u>	DA	Plaintiff's #12 - has to do with deadly weapon enhancement. Sounds like one is prior to finding of guilty or innocence. Strike this and feel that it isn't inconsistent. Pltlf's #14 - attempted strangulation - information on Count 3 - by squeezing her neck with her hands.
<u>05:05:16 PM</u>	PA	No objection.
<u>05:05:23 PM</u>	J	Keep language but adding squeezing her neck with his hands. Ms. McGovern to get a modified 14.

05:06:12 PM	DA	Pltf #21 seems to be a duplicate of #12 - deadly weapon.
05:06:31 PM	PA	I will withdraw that one if it is duplicate.
05:06:42 PM	J	Giving 12 and refusing #21.
05:07:15 PM	DA	#3 do I need to make correction?
05:08:17 PM	J	I will interlineations. State's requested #22 - narrative of a verdict form. Appropriate instruction, but counts off.
05:09:36 PM	PA	Potential verdict form.
05:09:44 PM	J	Doesn't track your verdict form.
05:10:02 PM	PA	I will try and coordinate them this evening.
05:10:13 PM	DA	Part II bifurcated or handled during deliberations.
05:10:32 PM	J	We don't need to bifurcate it. If we bifurcate, then instruction is fine. Will need an different verdict form to track this.
05:14:51 PM	PA	No objection to proposed jury instruction.
05:15:04 PM	J	The one I drafted is identical to the plaintiff's proposed verdict.
05:15:35 PM	DA	We have covered everything.
05:15:42 PM	J	I appreciate any additional instructions that are submitted tonight. Instruction left blank has been marked as 24.
05:17:36 PM	DA	No objections to 23 & 24.
05:18:12 PM	J	When I looked at photographs of the plaintiff's exhibits I recognize her as Erica Valentine. I don't know if she graduated from MHC or if she is still on probation. I don't believe that I have to step down from this case.
05:19:41 PM	DA	I do believe this is same person. Mr. Anderson had an objection to this court presiding over this case.
05:20:22 PM	J	I don't feel that I need to remove myself from this case.
05:20:42 PM	PA	No objection to court presiding.
05:21:03 PM	DA	I do want to make a record, inspite of my client informing me of this, I had a conversation with him about this. He stated he wanted you to preside over this case.
05:21:59 PM	J	It wasn't until I saw her photos that I realized she went by Erica Valentine previously.
05:23:18 PM	End	

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Description	CR 2014-22653 Anderson, Darol 20150721 Jury Trial Judge Mitchell Court Reporter Julie Foland Clerk Jeanne Clausen 		
Date	7/21/2015	Location	1K-COURTROOM9
Time	Speaker	Note	
08:18:48 AM	J	Callis case - Ms. Brooks present for the defendant and Ms. McGovern for the State. Presents counsel with a memo from Pete Barnes, Bailiff.	
08:20:03 AM	J	I'm not inclined to have him transported if he is dressed in orange.	
08:20:19 AM	Bailiff	He has been transported and is wearing street clothes.	
08:20:40 AM	DA	I would like a chance to talk to him.	
08:20:48 AM	J	Reviews jury instructions and verdict.	
08:22:27 AM	PA	I agree.	
08:22:33 AM	DA	I agree, but don't necessarily agree with the last few instruction.	
08:22:53 AM	J	I looked at unanimity instruction and am not going to give that instruction. Review cases submitted by defense counsel.	
08:27:16 AM	DA	Objection to the court for refusing to give that instruction. 25 & 26 jury verdict forms presented by Ms. McGovern. I thought it should say deadly weapon. I was given updated versions.	
08:28:40 AM	J	I have seen those and didn't raise that issue because its for part 2 and will deal with this later. I need to know if your client going to testify.	
08:29:20 AM	DA	If my client doesn't testify then we will rest.	
08:29:41 AM	J	Recess	
08:37:53 AM	J	Back on the record.	
08:37:59 AM	DA	My client stated he didn't want to testify, but then he stated he would. He wouldn't really cooperate with me. I don't know how he will act on the stand.	
08:38:41 AM	Deft	I apologize for my actions.	
08:38:56 AM	J	Your simple choices are you have a right to testify, but not right to disrupt the proceedings. You can either testify and respond to Ms. Brooks questions or not testify.	
08:39:36 AM	Deft	I understand.	
08:39:42 AM	PA	Ready to proceed.	
08:39:47 AM	DA	Ready to proceed.	
08:39:52 AM	J	I will remove you from presence of jury if there are any more	

		actions of misconduct.
<u>08:40:09 AM</u>	Deft	I understand.
<u>08:40:43 AM</u>	J	Back on the record with the jury presence.
<u>08:40:52 AM</u>	DA	Calls Darol Anderson. Directs.
<u>08:41:38 AM</u>	Darol Anderson	9/6/14 - was in bed with my wife Erica Messerly. She didn't see anything on my phone that upset her. I woke up to her kicking me sideways. I saw stars. I reached for her voice because it was dark. I grabbed her by throat and put her on bed. I told her I wasn't masturbating or sleeping with neighbor. As soon as I knew it was her neck, I let go of her and asked her what the hell was going on. I thought this was ridiculous. I made it to hallway and she started hitting me. She is bigger and weighs more than me. She hit me with a closed fist. She followed me down stairs and threw my cellphone in toilet. I was bent over with my head down and she started hitting me like she was a man. Striking me in head. I saw stars and then I hit her because I couldn't get out of there. When I hit her she fell down and then I got her up and put her on couch. She started freaking out again. I went to door to leave, got in my truck and drove away. I walked back to house because I was hoping she would be in bed by that time. I opened door with key and Erica wasn't there. Had extension cords running from another neighbor. Erica returned home with neighbor. She went to follow neighbor and I drug her back into house. I didn't want her to have sex with him. She told me to get out of house. I wrapped cord around my neck and told her to kill me. I started eating her medications. I just wanted to end my life. Erica left the house. I stayed at home until Erica returned. I didn't attempted to strangle Erica Messerly. I didn't threaten her with a knife. If I hit her it was in self defense.
<u>08:57:41 AM</u>	PA	Cross
<u>08:57:48 AM</u>	Darol Anderson	I grabbed her by throat with one hand. She was on top of me. I didn't hold her down very long. This entire incident took about 30 seconds. I believe I hit her in jaw and she passed out. She left and came back, so I tried to drag her back into house and she bit me.
<u>09:03:11 AM</u>	DA	Redirect
<u>09:03:15 AM</u>	Darol Anderson	I only know neighbor's name as James.
<u>09:03:35 AM</u>	DA	Defense rests.
<u>09:03:40 AM</u>	PA	No rebuttal evidence.
<u>09:03:46 AM</u>	J	This concludes evidentiary portion of this trial. Admonishes jury.
<u>09:04:17 AM</u>	J	Recess.
<u>09:04:50 AM</u>	J	Back on the record without jury present.
<u>09:05:01 AM</u>		I've looked thru jury instructions and have concerns about 14(j)

	PA	because it no longer applies.
09:05:44 AM	DA	There were objections I made yesterday and don't need to restate them.
09:05:59 AM	J	Plaintiff requested instruction #16, don't know why it was submitted instead of #3. I'm only to give instruction #3. Objection to not giving #16?
09:06:34 AM	PA	I don't think it will make a difference which one you use because they are husband and wife.
09:07:38 AM	J	I will use state's 14(f). Will give defendant's deadly weapon definition.
09:08:11 AM	DA	14(e).
09:08:21 AM	PA	No objection.
09:08:28 AM	J	Recess.
09:20:13 AM	J	Back on the record without the jury present.
09:20:26 AM	PA	Ready to bring in jury.
09:20:32 AM	DA	Ready to bring in jury.
09:20:39 AM	J	During closing arguments there will be somethings said that you aren't going to like. If I find your are being disruptive, I will have you removed from courtroom immediately.
09:21:50 AM	Deft	I understand.
09:22:32 AM	J	Back on the record with the jury present. Jury given the jury instruction packet. Reads jury instructions.
09:42:52 AM	PA	Presents closing argument.
10:09:13 AM	DA	Presents closing argument.
10:26:03 AM	PA	Rebuttal argument.
10:30:05 AM	J	Selects an alternate juror - #23.
10:33:37 AM	Clerk	Gives oath to bailiff for deliberations.
10:33:48 AM	J	Jury has gone back into jury room to deliberate.
10:34:03 AM	J	Mr. Anderson was mouthing something to the jury, then it stopped so I let him remain. If jury comes back into courtroom for verdict and you have an outburst, I will have you taken from courtroom immediately.
10:35:47 AM	J	Still wish to seek included offense of assault?
10:36:00 AM	PA	If they come back with a finding of not guilty, want to proceed with simple assault.
10:37:00 AM	J	We don't have a verdict for simple assault. I don't see anything wrong with pltf's #21. Only instruction is that is appropriate.
10:39:11 AM	DA	12 & 21 are duplicate.

<u>10:39:22 AM</u>	J	I will be giving 12.
<u>10:40:02 AM</u>	DA	Object to forms that was given to me in packet to me.
<u>10:40:57 AM</u>	PA	Only one special verdict.
<u>10:41:17 AM</u>	J	If you'd prepare one verdict form including deadly weapon. We will have to see what happens.
<u>10:42:08 AM</u>	PA	Nothing further.
<u>10:43:10 AM</u>	DA	Nothing further.
<u>10:43:14 AM</u>	J	Recess
<u>01:08:18 PM</u>	J	Back on the record -
<u>01:11:04 PM</u>	J	Jury now present. I've been told there is a verdict.
<u>01:11:35 PM</u>	J	Reads verdict - guilty of count 1 dom battery; Not guilty - agg assault; Not guilty of attempted strangulation; guilty count 4 dom battery; Not guilty of count 5 agg assault. Signed by presiding juror.
<u>01:12:48 PM</u>	PA	Does not want the jury polled.
<u>01:13:01 PM</u>	DA	Does not want the jury polled.
<u>01:13:09 PM</u>	J	Count 2 & 5 was an acquittal, state wish to proceed with additional verdict question?
<u>01:13:38 PM</u>	PA	Given the acquittals on those counts - not going to proceed on the additional verdict.
<u>01:21:31 PM</u>	J	Jury has been excused.
<u>01:21:31 PM</u>	J	Set for sentencing on 9/15/15 at 3:00 pm. Orders a PSI investigation and domestic violence evaluation.
<u>01:21:31 PM</u>	End	

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IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

DAROL KEITH ANDERSON,

Defendant.

Case No. CR-F14-22653

VERDICT

STATE OF IDAHO } SS
COUNTY OF KOOTENAI }
FILED: 12/1/15
AT 1:17 O'CLOCK P.M.
CLERK, DISTRICT COURT
DEPUTY

We, the Jury, unanimously find the defendant DAROL KEITH ANDERSON:

QUESTION #1

____ Not Guilty of COUNT I: DOMESTIC BATTERY

X Guilty of COUNT I: DOMESTIC BATTERY

QUESTION #2

X Not Guilty of COUNT II: AGGRAVATED ASSAULT

____ Guilty of COUNT II: AGGRAVATED ASSAULT

QUESTION #3

X Not Guilty of COUNT III: ATTEMPTED STRANGULATION

____ Guilty of COUNT III: ATTEMPTED STRANGULATION

QUESTION #4

____ Not Guilty of COUNT IV: DOMESTIC BATTERY

X Guilty of COUNT IV: DOMESTIC BATTERY

QUESTION #5

X Not Guilty of COUNT V: AGGRAVATED ASSAULT

____ Guilty of COUNT V: AGGRAVATED ASSAULT

DATED this 21 day of JULY, 2015

 CARL EATON
PRESIDING JUROR

STATE OF IDAHO)
County of Kootenai) ss

FILED

AT

1:17 O'clock P M

CLERK OF THE DISTRICT COURT

Deputy Clerk

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

DAROL KEITH ANDERSON,

Defendant.

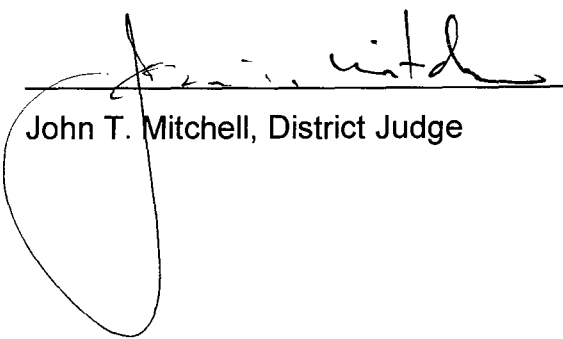
Case No. **CR F 2014 22653**

JURY INSTRUCTIONS

Attached hereto are the jury instructions given on the trial of the above matter.

Copies have been given to counsel of record.

Dated this 21st day of July, 2015.


John T. Mitchell, District Judge

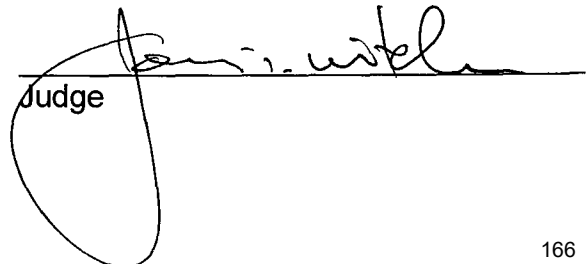
INSTRUCTION NO. 1

Now that you have been sworn as jurors to try this case, I want to go over with you what will be happening. I will describe how the trial will be conducted and what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to reach your decision.

Because the state has the burden of proof, it goes first. After the state's opening statement, the defense may make an opening statement, or may wait until the state has presented its case.

The state will offer evidence that it says will support the charge against the defendant. The defense may then present evidence, but is not required to do so. If the defense does present evidence, the state may then present rebuttal evidence. This is evidence offered to answer the defense's evidence.

After you have heard all the evidence, I will give you additional instructions on the law. After you have heard the instructions, the state and the defense will each be given time for closing arguments. In their closing arguments, they will summarize the evidence to help you understand how it relates to the law. Just as the opening statements are not evidence, neither are the closing arguments. After the closing arguments, you will leave the courtroom together to make your decision. During your deliberations, you will have with you my instructions, the exhibits admitted into evidence and any notes taken by you in court.


Judge

INSTRUCTION NO. 2

Count I of the Information charges Domestic Battery and alleges that the defendant, **Darol Keith Anderson**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Erica Messerly, and by committing said battery, did inflict a traumatic injury upon the person of Erica Messerly, to wit: cuts and/or bruises, and where Erica Messerly and the defendant have a dating relationship and/or are household members.

Count II of the Information charges Aggravated Assault and alleges that the defendant, **Darol Keith Anderson**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by act and/or word to do violence upon the person of Erica Messerly, with a deadly weapon or instrument, to-wit: a knife, which created a well-founded fear in Erica Messerly that such violence was eminent.

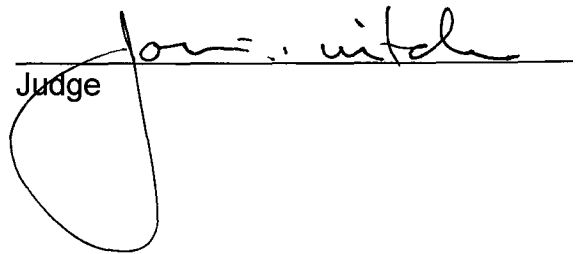
Count III of the Information charges Attempted Strangulation and alleges that the defendant, **Darol Keith Anderson**, on or about September 6, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully choke or attempt to strangle the person of Erica Messerly, to-wit: by squeezing her neck with his hands, and where Erica Messerly and the defendant have or had a dating relationship.

Count IV of the Information charges Domestic Battery and alleges that the defendant, **Darol Keith Anderson**, on or about September 7, 2014, in the County of Kootenai, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Erica Messerly, where Erica Messerly and the defendant have a dating relationship and/or are household members.

Count V of the Information charges Aggravated Assault and alleges that the defendant, **Darol Keith Anderson**, on or about September 6, 2014, in the County of

Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by act and/or word to do violence upon the person of Erica Messerly, with a ^{deadly} ~~weapon~~ ^{from 7/20/15} or instrument, to-wit: a metal pole, which created a well-founded fear in Erica Messerly that such violence was eminent.

To these charges the Defendant has pled not guilty.

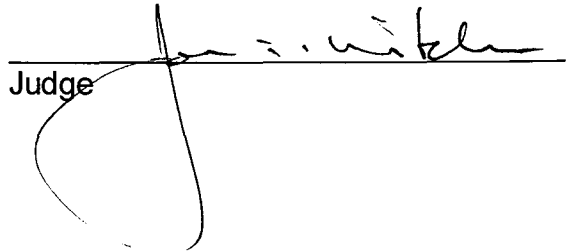
A handwritten signature in cursive script, appearing to read "J. M. Smith", is written over a horizontal line. Below the line, the word "Judge" is printed. A large, loopy flourish extends from the bottom of the signature.

Judge

INSTRUCTION NO. 3

The Information in this case is of itself a mere accusation or charge against the defendant and does not of itself constitute any evidence of the defendant's guilt; you are not to be prejudiced or influenced to any extent against the defendant because a criminal charge has been made.

or charges for 7/20/15

Judge 

INSTRUCTION NO. 4

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any

problems. You are not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

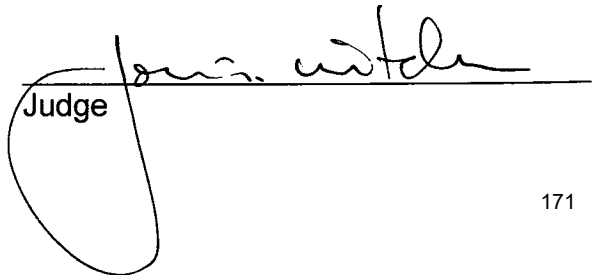
Some of you have probably heard the terms "circumstantial evidence," "direct evidence" and "hearsay evidence." Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.


Judge

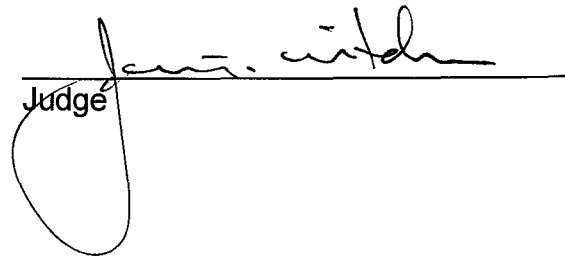
INSTRUCTION NO. 5

Under our law and system of justice, the defendant is presumed to be innocent.

The presumption of innocence means two things.

First, the state has the burden of proving the defendant guilty. The state has that burden throughout the trial. The defendant is never required to prove his or her innocence, nor does the defendant ever have to produce any evidence at all.

Second, the state must prove the alleged crime beyond a reasonable doubt. A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

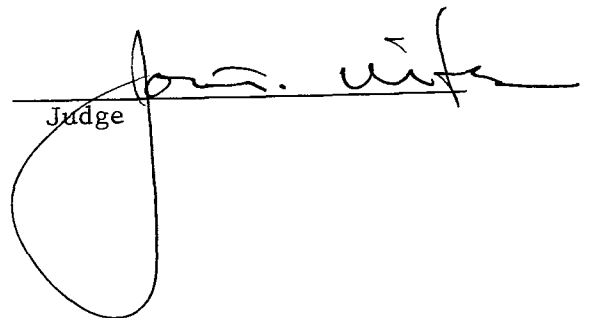

Judge

INSTRUCTION NO. 13a

YOU ARE INSTRUCTED that in order for the Defendant to be guilty of DOMESTIC BATTERY as charged in COUNT I, the state must prove each of the following:

1. On or about the 6th day of September, 2014;
2. In the State of Idaho;
3. The Defendant, **DAROL KEITH ANDERSON**, committed a battery upon Erica Messerly by using force and/or violence;
4. While they were in a dating relationship or household members, and
5. in doing so the Defendant willfully inflicted a traumatic injury upon Erica Messerly.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

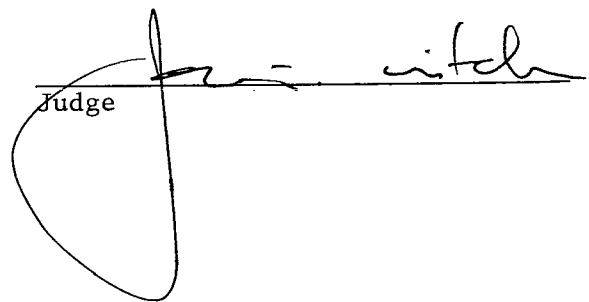
A handwritten signature in black ink, appearing to read "Judge", is written over a horizontal line. The signature is stylized and cursive.

INSTRUCTION NO. 13b

In order for the defendant to be guilty of AGGRAVATED ASSAULT as charged in COUNT II, the state must prove each of the following:

- 1 On or about 6th day of September, 2014;
2. in the State of Idaho;
3. DAROL KEITH ANDERSON committed an assault upon Erica Messerly;
4. by threatening Erica Messerly with a knife, and
5. the defendant committed that assault with a deadly weapon or instrument.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

A handwritten signature in black ink, appearing to read "Judge", is written over a horizontal line. The signature is stylized and cursive.

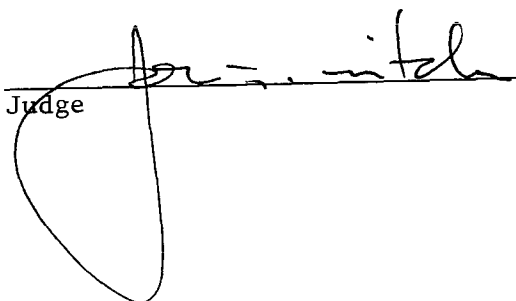
Judge

INSTRUCTION NO. 13c

In order for the defendant to be guilty of ATTEMPTED STRANGULATION, as charged in COUNT III, the state must prove each of the following:

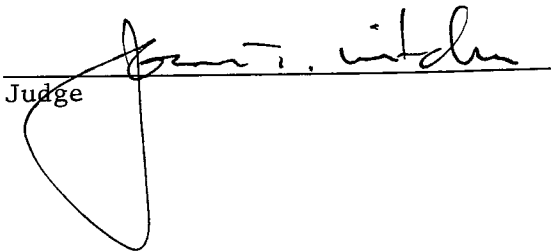
1. On or about the 6th day of September, 2014;
2. in the state of Idaho;
3. the defendant, DAROL KEITH ANDERSON, did choke and/or attempt to strangle Erica Messerly, to wit: by squeezing her neck with his hands;
4. willfully and unlawfully; and
5. Erica Messerly and the Defendant were household members at the time of the offense and/or a person with whom DAROL KEITH ANDERSON had a dating relationship, either at the time of the offense or at a previous time.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.


Judge

INSTRUCTION NO. 13d

YOU ARE INSTRUCTED no injuries are required to prove attempted strangulation. The State is not required to show that the defendant intended to kill or injure the victim. The only intent required is the intent to choke or attempt to strangle.

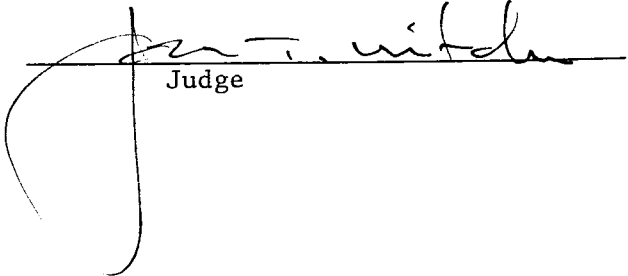

Judge

INSTRUCTION NO. 13e

YOU ARE INSTRUCTED that in order for the Defendant to be guilty of DOMESTIC BATTERY as charged in COUNT IV, the state must prove each of the following:

1. On or about the 7th day of September, 2014;
2. In the State of Idaho;
3. The Defendant, **DAROL KEITH ANDERSON**, committed a battery upon Erica Messerly;
4. While they were in a dating relationship or household members.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.


Judge

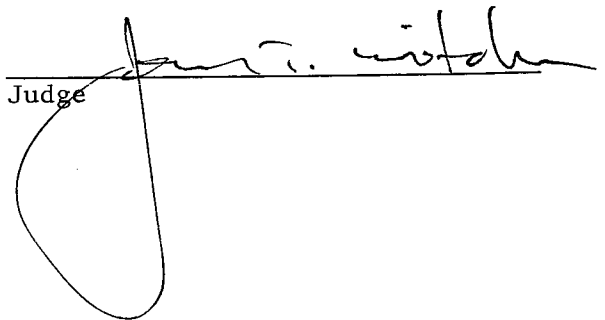
INSTRUCTION NO. 13^d

In order for the defendant to be guilty of AGGRAVATED ASSAULT as charged in Count V, the state must prove each of the following:

1. On or about 6th day of September, 2014;
2. in the State of Idaho;
3. DAROL KEITH ANDERSON committed an assault upon Erica Messerly;
4. by threatening Erica Messerly with a metal pole, and
5. the defendant committed that assault with a deadly weapon or instrument.

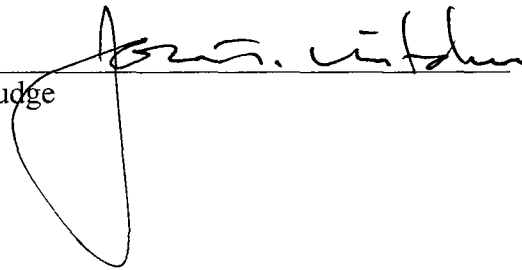
If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

Judge

A handwritten signature in black ink, appearing to read "D. Keith Anderson", is written over a horizontal line. Below the line, there is a large, loopy, circular flourish.

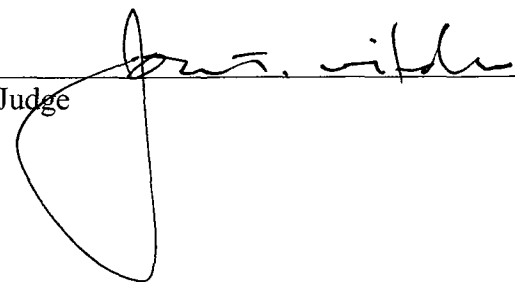
INSTRUCTION NO. 14a

I may at times use the word “victim” in these instructions or in the course of this trial. This word is used only to refer to a person or persons who are alleged to have been victimized, and is used only for convenience. It does not indicate any opinion on my part that a person is a victim, or that the defendant has committed an offense. Whether a person is a victim, and whether the defendant is guilty of any offense, are matters for you alone to determine based on the evidence presented at trial.


Judge

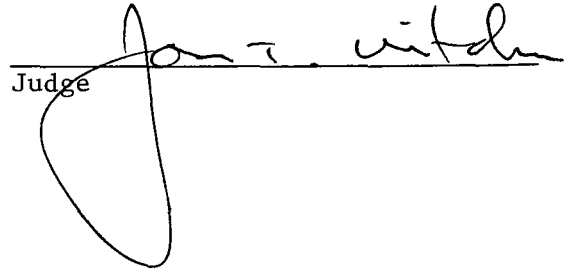
INSTRUCTION NO. 146

Each count charges a separate and distinct offense. You must decide each count separately on the evidence and the law that applies to it, uninfluenced by your decision as to any other count. The defendant may be found guilty or not guilty on any of the offenses charged.


Judge

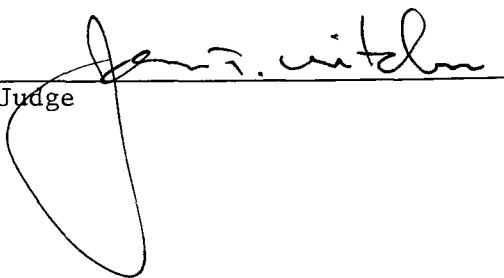
INSTRUCTION NO. 141c

In every crime or public offense there must exist a union or joint operation of act and intent.

A handwritten signature in cursive script, appearing to read "Judge", is written over a horizontal line. The signature is fluid and stylized, with a large loop at the end.

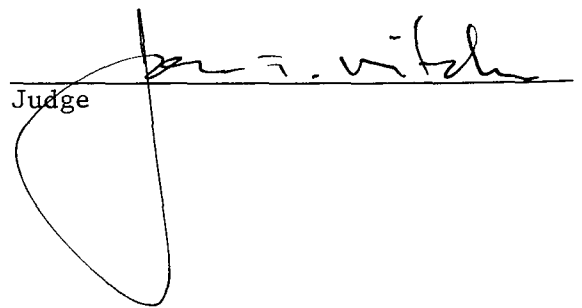
INSTRUCTION NO. 142

An act is "wilful" or done "wilfully" when done on purpose. One can act wilfully without intending to violate the law, to injure another, or to acquire any advantage.


Judge

INSTRUCTION NO. 14e

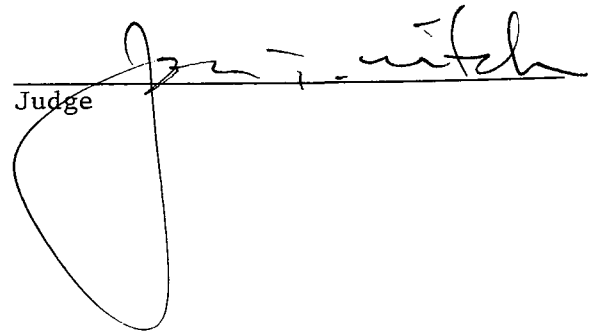
A "deadly weapon or instrument" is one likely to produce death or great bodily injury. It also includes any other object that is capable of being used in a deadly or dangerous manner if the person intends to use it as a weapon.

A handwritten signature in cursive script, appearing to read "Judge", is written over a horizontal line. The signature is written in black ink and is positioned to the right of the word "Judge".

Judge

INSTRUCTION NO. 14f

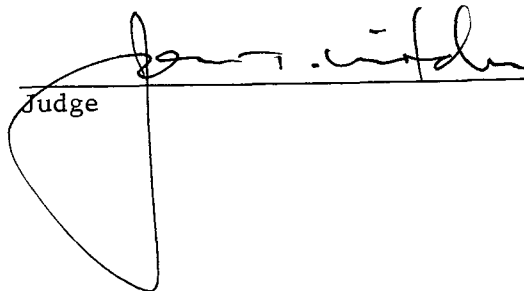
YOU ARE INSTRUCTED that a household member means a person who is a spouse, former spouse, or a person who has a child in common, regardless of whether they have been married or a person with whom a person is cohabiting, whether or not they have married or have held themselves out to be husband or wife.

A handwritten signature in cursive script, appearing to read "Darol Keith Anderson", is written over a horizontal line. Below the signature, the word "Judge" is printed.

Judge

INSTRUCTION NO. 14g

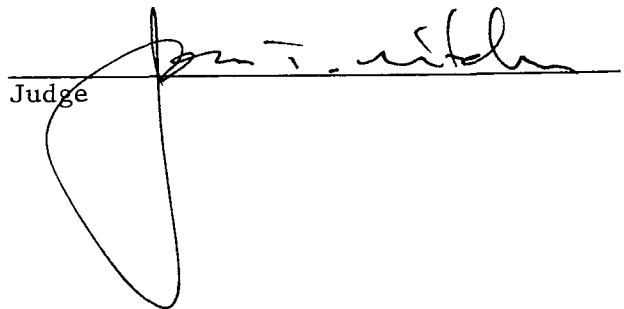
YOU ARE INSTRUCTED that a "traumatic injury" is defined as a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature caused by physical force.


Judge

INSTRUCTION NO. 14 h

YOU ARE INSTRUCTED that a "battery" is any:

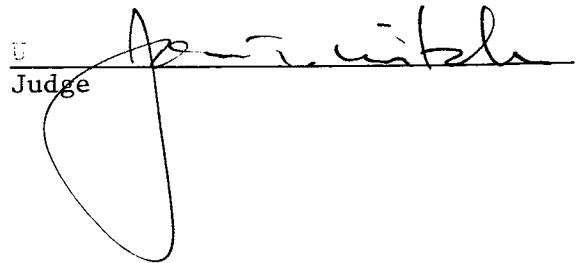
- (a) Willful and unlawful use of force and violence upon the person of another; or
- (b) Actual, intentional and unlawful touching or striking of another person against the will of the other; or
- (c) Unlawfully and intentionally causing bodily harm to an individual.


Judge

INSTRUCTION NO. 14i

An "assault" is committed when a person:

- (1) unlawfully attempts, with apparent ability, to commit a violent injury on the person of another; or
- (2) intentionally and unlawfully threatens by word or act to do violence to the person of another, with an apparent ability to do so, and does some act which creates a well-founded fear in the other person that such violence is imminent.


Judge

INSTRUCTION NO. 15a

A battery is justifiable if the defendant was acting in self-defense.

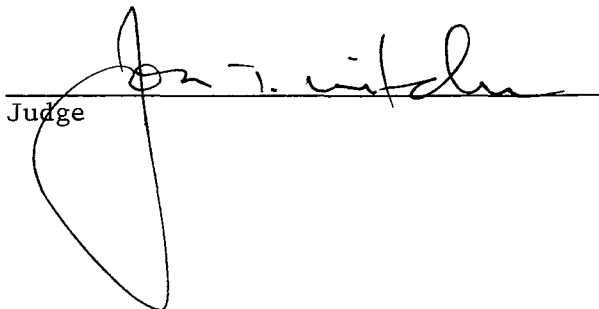
In order to find that the defendant acted in self-defense, all of the following conditions must be found to have been in existence at the time of the striking:

1. The defendant must have believed that the defendant was in imminent danger of bodily harm.
2. In addition to that belief, the defendant must have believed that the action the defendant took was necessary to save the defendant from the danger presented.
3. The circumstances must have been such that a reasonable person, under similar circumstances, would have believed that the defendant was in imminent danger of bodily injury and believed that the action taken was necessary.
4. The defendant must have acted only in response to that danger and not for some other motivation.
5. When there is no longer any reasonable appearance of danger, the right of self-defense ends.

In deciding upon the reasonableness of the defendant's beliefs, you should determine what an ordinary and reasonable person might have concluded from all the facts and circumstances which the evidence shows existed at that time, and not with the benefit of hindsight.

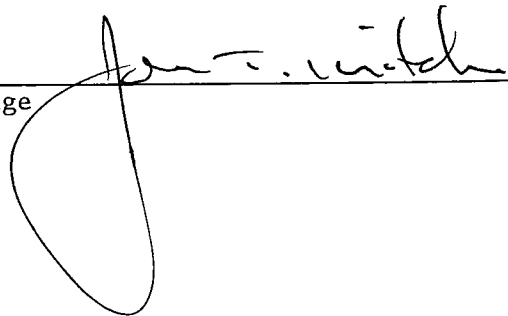
The danger must have been present and imminent, or must have so appeared to a reasonable person under the circumstances. A bare fear of bodily injury is not sufficient to justify a battery. The defendant must have acted under the influence of fears that only a reasonable person would have had in a similar position.

The burden is on the prosecution to prove beyond a reasonable doubt that the battery was not justifiable. If there is a reasonable doubt whether the battery was justifiable, you must find the defendant not guilty.


Judge

INSTRUCTION NO. 15b

The kind and degree of force which a person may lawfully use in self-defense is limited by what a reasonable person in the same situation as such person, seeing what he sees and knowing what he knows, then would believe to be necessary. Any use of force beyond that is regarded by the law as excessive. Although a person may believe that he is acting, and may act, in self-defense and/or defense of another, he is not justified in using a degree of force clearly in excess of that apparently and reasonably necessary under the existing facts and circumstances.



Judge

INSTRUCTION NO. 15c

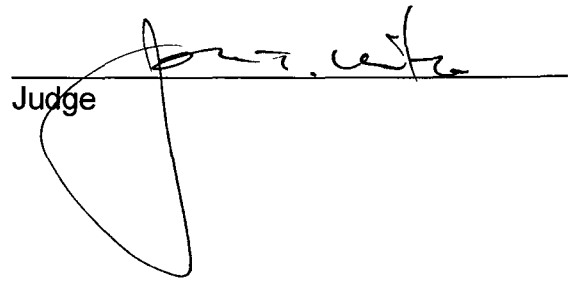
Our law provides that "no act committed by a person while in a state of voluntary intoxication is less criminal by reason of his having been in such condition."

This means that intoxication, if the evidence shows that the defendant was in such a condition when he allegedly committed the crime charged, is not of itself a defense in this case.

Judge

INSTRUCTION NO. 16

It is alleged that the crime charged was committed "on or about" a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

A handwritten signature in black ink, appearing to read "Darol Keith Anderson", is written over a horizontal line. Below the line, the word "Judge" is printed in a serif font.

Judge

INSTRUCTION NO. 17

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

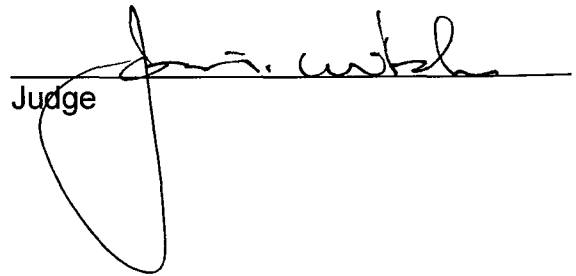
Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual

INSTRUCTION NO. 18

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way.

You will each receive a copy of the instructions. The copies will be presented to you in booklet form.

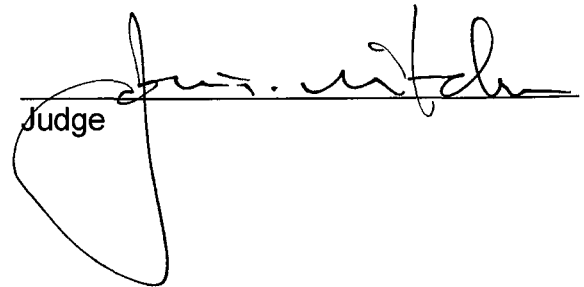
The instructions are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.

A handwritten signature in black ink, appearing to read "J. M. White", is written over a horizontal line. Below the line, the word "Judge" is printed in a small, black, sans-serif font.

Judge

INSTRUCTION NO. 19

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instructions apply will depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the Court is expressing any opinion as to the facts.

A handwritten signature in black ink, appearing to read "Darol Keith Anderson", is written over a horizontal line. Below the line, the word "Judge" is printed in a small, sans-serif font. A large, loopy flourish extends from the bottom of the signature, looping back under the word "Judge".

Judge

INSTRUCTION NO. 20

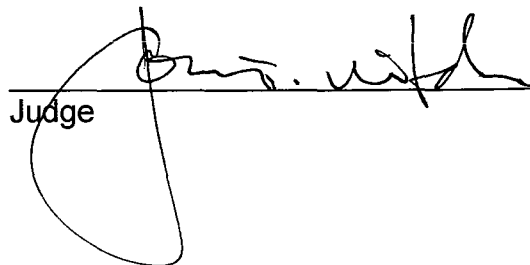
Upon retiring to the jury room, select one of you as a presiding officer, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding juror will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a note by the bailiff. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

A verdict form suitable to any conclusion you may reach will be submitted to you with these instructions.


Judge

ORIGINAL OF THIS DOCUMENT TO BE FILED

Assigned to: _____
Assigned: _____

STATE OF IDAHO } SS
COUNTY OF KOOTENAI } 7/21/15
FILED: 5:00 PM
AT CLERK, DISTRICT COURT
DEPUTY

First Judicial District Court, State of Idaho
In and For the County of Kootenai
ORDER FOR PRESENTENCE REPORT AND EVALUATIONS

STATE OF IDAHO
Plaintiff,
vs.

Darol Keith Anderson
5500 Burke Rd
Wallace, ID 83873

Case No: CR-2014-0022653

ORDER FOR PRE – SENTENCE INVESTIGATION
REPORT

CHARGE(s):

I18-918(3)(b) F Battery-Domestic Violence

I18-918(3)(b) M Battery-Domestic Violence Without Traumatic
Injury Against a Household Member

ROA : PSIO1- Order for Presentence Investigation Report

On this Tuesday, July 21, 2015, a **Pre-sentence Investigation Report** was ordered by the Honorable John T. Mitchell to be completed for Court appearance on: _____

Tuesday, September 15, 2015 at 03:00 PM at the above stated courthouse.

☐ Behavioral Health Assessments waived by the Court (PSIO1 ROA code)

☒ Waiver under IC 19-2524 2 (e) allowing assessment and treatment services by the same person or facility

Other non- §19-2524 evaluations/examinations ordered for use with the PSI:

☐ Sex Offender ☐ Domestic Violence ☐ Other _____ Evaluator: _____

PLEA AGREEMENT: State recommendation

WHJ/JOC ☐ Probation ☐ PD Reimb ☐ Fine ☐ ACJ ☐ Restitution ☐ Other: open follow jury verdict

DEFENSE COUNSEL: J. Lynn Brooks, Conflict Public Defender _____

PROSECUTOR: Kootenai County Prosecutor - CR _____

Guilty on two counts
of Domestic Battery.

THE DEFENDANT IS IN CUSTODY: ☒ YES ☐ NO If yes where: _____

DO YOU NEED AN INTERPRETER? ☒ NO ☐ YES if yes, what is the language? _____

Date: 7/21/15 Signature: _____
Judge

Cc: PC Prosecuting Attorney for Kootenai County
DC Defense Attorney: J. Lynn Brooks, Conflict Public Defender
IC EMAILED: d1sudintake@idoc.idaho.gov
IC Defendant

7/28/15 @ 1:24pm

James Claver 7/21/15
Deputy Clerk Date

110

KOOTENAI COUNTY SHERIFF'S OFFICE
JAIL BUREAU
INMATE REQUEST FORM (KITE)

OFFICE OF IDAHO
COUNTY OF KOOTENAI
FILED:

MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

Inmate's Name:

Darol K Anderson

Date:

2015 JUL 24 PM 3:44

Pod:

CLERK DISTRICT COURT
7-24-15

Cell:

Name/Number:

CR14-22653

Circle One:

Medical

Attorney

Haircut

Court Contact

Appeal

Complaint

Request

Chaplain

Classification

Law Library

Explanation:

Ist I know I should have walked away after the confrontation Mrs Messerly + I had IN Bed; from that point I was wrong and take full responsibility. I was wrong no matter what for I knew Erica was unstable + had a mental illness. And I Ask God forgiveness everyday for that, I Did Tell the truth whether the Court Believe's it or not; But when Christ Comes we All have to Answer to him and that day we will all know truth, Mr Preston Left me IN a wh, I forgive his false accusations and hand it over to God, I Believe Mrs Messerly Will Concede He lied; If she stays Sober which is my Hopes + Prayers:

Inmate's Signature:

[Signature]

Erica's Fear's noone see's, Caused from the system, noone Really seen. But I lived it, Please fix it.

Receiving Deputy:

[Signature]

ID#

Date/Time

7-23-15
I will leave it All At That - forgive me.

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to:

Court

(to be filled in by Deputy receiving request form)

Answer: [] Approved [] Denied

Reason:

Filed KCPA-446-2168

"

L. Broder - 645-0385

Responding Staff Signature:

[Signature]

ID#

Date

7/31/15

Copy to File

Copy to Inmate

KOOTENAI COUNTY SHERIFF'S OFFICE
JAIL BUREAU
INMATE REQUEST FORM (KITE)

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:

2015 JUL 28 PM 3:18

MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

Inmate's Name: Darol Anderson

Date: 7-26-15
Pod: E DEPUTY
Cell: 2
Name/Number: 545

Judge Mitchell

Circle One: Medical
Attorney/Court Contact
Haircut

Appeal
Complaint
Request

Chaplain
Classification
Law Library

Explanation: SIR, IN March of 2015 I Asked my Attorney
LYNN Brooks, to Bring the Charges from Shoshone
& Kootenay together for A Global Resolution
Could you Please Make the Public Defenders office
and or LYNN Brooks to file A Globle Resolution
So I can Move Forward in my Cases with
Shoshone & Kootenay -

Thank you

God Bless

Inmate's Signature: [Signature]

Receiving Deputy: [Signature]

ID# 46

Date/Time 7-27-15 1028

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

Routed to: Disct F14-22653
(to be filled in by Deputy receiving request form)

ACTION

CC: Lynn Brooks - faxed 665-0220
KEPA - 446-2168

Answer: [] Approved [] Denied

Reason: _____

Responding Staff Signature: _____

ID# _____

Date _____

Copy to File / Copy to Inmate /

Darol Keith Anderson

43673

198

JAIL SHR #307 Rev. 5/14

First Judicial Court, State of Idaho

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: SS

IN and For the County of Kootenai

2015 JUL 28 PM 3:19

State of Idaho

Plaintiff

vs.

Darol K Anderson ^{SR}

Defendant

CLERK DISTRICT COURT

DEPUTY

Motion of
Global Resolution
CR14-22653

Comes now the 27th day of July IN the
County of Kootenai Comes to Request that with
IN the State of Idaho that All Charges &
IN or about All Counties IN cluding
Shoshone County & arriedia County
That A Globle Resolution Be made
From this Date 27 day of
July 2015. 6 months - 180 days -

Darol Keith Anderson

43673

PHOTOCOPY AND SEND TO:

HDA - L Brooks

Info Ltr Ref

Date 7/31/15 By

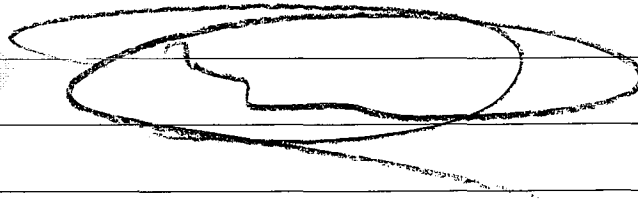
#1058 #1253

This is A Certificate of Recieval

Courts Clerk

Presiding Judge
Jude John Mitchell

Copy to Be Sent to Defendant
Darol Anderson



Darol Keith Anderson
01/13/70 116

PHOTOCOPY AND SEND TO:
Info hpa-fax, Ltr fax
Date 7/31/15 By #1055 #1055

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: SS

2015 JUL 28 PM 3:19

CLERK DISTRICT COURT

CR14-22653

Honorable Judge Mitchell

First to take responsibility and to be honest with myself & others
I know that I'm an addict and continue to make bad choices with my
addiction. I've engaged in unhealthy relationships and allow
my emotions to drive my addiction, and My Mouth!! I've been blaming
others & even the Court for the series of events that have
taken place. And failed to look at myself and I know I need
to make changes in myself so I don't continue to make these
choices that effect not only me but others. I know now
that if I would have had the support of the Church & with
the multitude of counselors, I would have made better
choices. I know the way I handled the situations with Mrs.
Messersly was not Godly and not only failed her & the
kids but my Creator & Lord Jesus. I can't change the past but I
can change the future and get the help needed so that the Good
Lord can use me in ways that he sees fit. I know I was not
strong enough to be in any relationship and was selfish of me. I know I need
a solid support system and the only place is through the Church, since I've
been incarcerated I've been building a solid foundation in Christ and
have memorized a scripture to fight my sins & not only that
but a solid foundation in the Lord, which in fact I've memorized
all scriptures verbatim. I don't know what the Court plans to do
with me but it's obviously in God's hands. So on that Heb 13:17 Obey
them that have rule over you for they watch for your souls that they
must give an account that they may do it with joy and not grief for that would be
unprofitable for you. So on that I lay my life in the Courts hands and
accept what the Court sees fit. God Bless and may
The Good Lord Bless your path and all before you.

J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

116
 STATE OF IDAHO }
 COUNTY OF KOOTENAI } SS
 FILED: *[Signature]*
 2015 AUG 10 PM 2:03
 CLERK DISTRICT COURT
[Signature]
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)

Plaintiff,)

V.)

DAROL KEITH ANDERSON,)

Defendant.)

CASE NUMBER CR-14-22653

**MOTION FOR COST OF DOMESTIC
 VIOLENCE EVALUATION TO BE PAID
 FROM COUNTY FUNDS**

COMES NOW the above-named defendant, by and through his attorney, J. Lynn Brooks, Conflict Public Defender, and hereby moves this Court for an Order to authorize payment from county funds in the amount of THREE HUNDRED (\$300) DOLLARS to Emerald Counseling, 601 E. Seltice, #205, Post Falls, ID 83854, to conduct a domestic violence evaluation in this case.

This Motion is made on the grounds that the Court has ordered Defendant to undergo a domestic violence evaluation prior to his Sentencing Hearing on September 15, 2015. The defendant was determined to be indigent by the above-entitled Court on January 20, 2015, and his representation is provided for by the undersigned counsel as a Conflict Public Defender.

DATED this 10th day of August, 2015.

[Signature]
 J. LYNN BROOKS

Attorney for Defendant

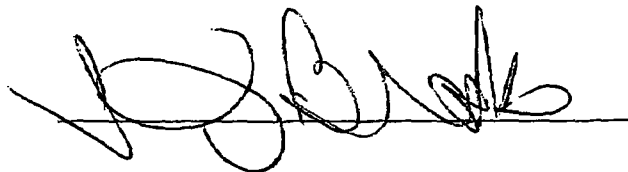
CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same by method indicated below on the 10th day of August, 2015, addressed to:

Kootenai County Prosecuting Attorney

☒ Via Fax 208-446-2168

☐ Hand-Delivery



STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 13

J. Lynn Brooks, Attorney at Law
Conflict Public Defender
P.O. Box 2931
Hayden, Idaho 83835
Telephone: (208) 665-0385
Fax: (208) 665-0220
brookslawcda@roadrunner.com
Bar Number: 3623

2015 AUG 14 PM 4:26
CLERK DISTRICT COURT
DEPUTY

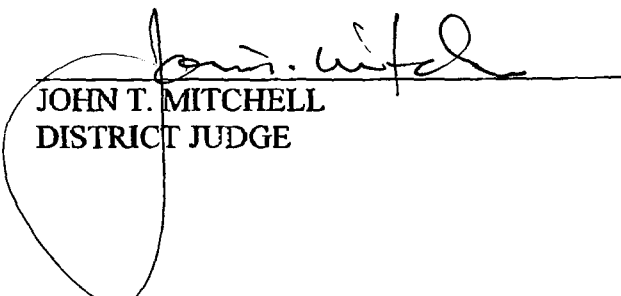
**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-14-22653
V.)	
	)	ORDER ON MOTION FOR COST OF
DAROL KEITH ANDERSON,	)	DOMESTIC VIOLENCE EVALUATION
	)	TO BE PAID FROM COUNTY FUNDS
Defendant.)	

The Court having before it Defendant's Motion for Cost of Domestic Violence Evaluation to be Paid from County Funds, and good cause appearing, now, therefore:

IT IS HEREBY ORDERED that the sum of THREE HUNDRED (\$300) DOLLARS is to be paid to Emerald Counseling, 601 E. Seltice, #205, Post Falls, ID 83854; to conduct a domestic violence evaluation in this case, upon presentation of its invoice to the Clerk of Court for payment.

DATED this 14th day of August, 2015.


JOHN T. MITCHELL
DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 14 day of August, 2015, addressed to:

J. Lynn Brooks, counsel for Defendant Via Fax to (208) 665-0220 ✓

Kootenai County Prosecuting Attorney

____ Via Fax to (208) 446-2168 ✓

____ Via interoffice mail

Nicole Vigil
email

#1549

4:24pm



KOOTENAI COUNTY SHERIFF'S OFFICE
JAIL BUREAU
INMATE REQUEST FORM (KITE)

116
STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 155

MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

2015 AUG 17 PM 3:24

CLERK DISTRICT COURT

Inmate's Name:

Darol Anderson

Date:

Pod:

Cell:

Name/Number:

DEPUTY

Honorable Judge Mitchell/State of Idaho
LYNN BROOKS

Circle One:

Medical

Attorney/Court Contact

Haircut

Appeal

Complaint

Request

Chaplain

Classification

Law Library

Explanation:

To all Parties Involved Here is an Apology
letter to Mrs Messerly. I'm sending it to the
Court for a Couple Reasons one the Rescheduling
order. And two IF it's appropriate I'll leave
it in the hands of the Court To know
if it would be safe for Mrs Messerly to
Read it. Thank you.

God Bless

Inmate's Signature:

Receiving Deputy:

ID# 20

Date/Time 8-16-15 0954

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to:

Judene Mitchell
(to be filled in by Deputy receiving request form)

FIA-22653

Answer: ☐ Approved ☐ Denied

Reason:

Responding Staff Signature:

Copy to File

Copy to Inmate

Darol Keith Anderson

43673

206
JAIL SHR #307 Rev. 5/14

PHOTOCOPY AND SEND TO:

KCOP 13 DD

Info: Lt. Det.

ID# 1756 By: [Signature] Date: 8-16-15

7:37 AM

2015 AUG 17 PM 3:24

CLERK DISTRICT COURT

DEPUTY

ERICA, Looking Back on our Relationship
I was self righteous and failed to see where I was. I was not spiritually growing. I was not taking care of my family. I was barely taking care of myself. And I knew how I was leading my life and not God. And Repent of my wicked ways. I manipulated the scriptures and used them to justify taking you as my wife. Please forgive me. I know that I tried to lead you and the kids through the word of God and made many mistakes especially with discipline. The transformation was actual amazing as you know. And I knew from the start that you and the kids been through many hard trials & tribulations and I needed to be very careful in all our works. That is why I was doing everything from the word of God. But as time went forward. Some exceptions were made. And I was always captive and I was change my life. As you came to me with that heart I failed you. I did not make choices for you and the kids as a spiritual leader. But as a work man in my past I've always been a runner. Running from my fears & problems. So I was in a constant run. But when everything flipped upside down on us. I failed you again. And I hate that we were running. I ended up bringing you and I used together. That was the

I allowed the series of events to take place
that put us in this position were I told
today. You were pretty honest about us addition
for the past year, and I know better. I know
you are the one who expected more out of me
on our days. But I was not spiritually and
mentally stable enough. I hope and pray that
you and the kids can forgive me for
all the things I allowed as a husband and father
and I learned some hard lessons and now I will
continue to build a solid foundation in
the word of God. I thank you for all that
has taken place. I've learned so much
about myself through the word of God.
I've memorized 112 scriptures, many of
which are inspired by God. This one is yours
1 John 4:18 - There is no fear in love, but perfect
love casts out fear. Because fear has torment
he that fears is not made perfect in love. Erica
Jesus loves you so much. And after everything
you been through there is nothing more to
fear. And people like us, God won't let us
go. So we have to live in Christ. There
are chosen people like John. I hope & pray
that your continuing testimony again for Christ
taking off where you left off in the book. Turn
up life and your will ever do the will of
God. (Wendy Mistlers) Reflections of His Image

KOOTENAI COUNTY SHERIFF'S OFFICE
JAIL BUREAU
INMATE REQUEST FORM (KITE)

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: ss

2015 AUG 17 PM 3:23

MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

CLERK DISTRICT COURT

Inmate's Name: Darol K Anderson

Date: 8.15.15

Pod: 2 DEPUTY

Cell: 2

Name/Number: 545

Honorable Judge Mitchell

Circle One: Medical
Attorney Court Contact
Haircut

Appeal
Complaint
Request

Chaplain
Classification
Law Library
not sure on the name
But caused by lead poisoning

Explanation: Sir, Bare with me, I watched a segment on TV. Which

→ "PIKA"? A disease caused by lead poisoning showed symptoms that
were very familiar to me. Looking back on my life & actions
that have taken place. Lead me to believe I might
have this disease. I was Born in Kellogg Idaho in 1970, Raised
when the lead was ramped IN the air the paint, everything
and the person had actions & symptoms raised a red flag to me
"especially" how I've acted in court & otherwise, Now! I'm not
trying to make excuses for my actions. "Just understanding?"
Please could the court help me to find this out. Any type of

Inmate's Signature: [Signature] Testing? Thank you & God Bless

Receiving Deputy: [Signature] ID# 07 Date/Time 8/14/15

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to: Judge Mitchell

(to be filled in by Deputy receiving request form)

Answer: [] Approved [] Denied

Reason: _____

Responding Staff Signature: _____ ID# _____ Date _____

Copy to File _____ Copy to Inmate _____

Darol Keith Anderson

43673

209

JAIL SHR #307 Rev. 5/14

RECEIVED BY

AUG 26 2015

KOOTENAI COUNTY
PUBLIC DEFENDER

KOOTENAI COUNTY SHERIFF'S OFFICE

JAIL BUREAU

INMATE REQUEST FORM (KITE)

110
STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

MUST BE FILLED OUT COMPLETELY BEFORE REQUEST WILL BE PROCESSED
ONLY ONE REQUEST PER KITE

Inmate's Name: Darol K Anderson

Date: 8-24-15

Pod: E DEPUTY

Cell: 2

Name/Number: 545

(Saturday)
8-22-15 (8:00 - 11:00)

Circle One: Medical
Attorney/Court Contact
Haircut

Appeal
Complaint
Request

Chaplain
Classification
Law Library

Explanation: Sir, with All Respect the Jail Has been getting over crowded
And through that I WAS IN an altercation, and I feel I handled
the situation to the Best of my Abilities. And its all on video considering
that it took Place in the Common Areas I IN fact had a Bible
IN my hand Most of the time, which will clearly show up untill
I was ejected. There were officers witnessing this the Whole
time And did nothing till Another Inmate Broke it up.
Now the officers were warned of these Possible situations
By other Inmates And No Action was taken. And I'll have
to Ask myself why. As of 8-24-15 I still have not Recieved

Inmate's Signature: [Signature] Any Medical Attention. Need X-Rays. Please
And Im in the hole for no Apparent Reason.

Receiving Deputy: C. May ID# 2245 Date/Time 8/24/15

THIS REQUEST IS NULL AND VOID IF INMATE WRITES BELOW THIS SPACE

ACTION

Routed to: Dist. Court CR 14-22653
(to be filled in by Deputy receiving request form)

Answer: [] Approved [] Denied

Reason: Filed to KCPA - 446-3168
Lynn Brooks - 165-0220
#1931

Responding Staff Signature: [Signature] ID# _____ Date 8/28/15

Copy to File _____ Copy to Inmate ✓
Darol Keith Anderson 43673 210

Description	CR 2014-22653 Anderson, Darol 20150915 Sentencing Judge Mitchell Court Reporter Julie Foland Clerk Jeanne Clausen		
Date	9/15/2015	Location	1K-COURTROOM10
Time	Speaker	Note	
02:56:05 PM	J	Calls case - deft present incustody and represented by Mr. Pierce. Mr. Pierce is filling in for Ms. Brooks. Ms. Simmons for the state. Reviews presentence investigation.	
02:56:58 PM	Deft	I have read the report and discussed with my attorney.	
02:57:09 PM	DA	Reviews corrections to PSI. Entire PSI seems to be under misconception that my client cut a plea deal. My client went to trial and was acquitted on 3 charges and found guilty of 2 domestic battery. Objects to using the police report at all in PSI.	
02:58:34 PM	J	Police isn't attached to PSI. There are quotes from police report.	
02:59:21 PM	DA	Page 3 - everything that State's Officer Mortonson.	
03:00:01 PM	J	No you have any authority for this?	
03:00:10 PM	DA	There are misstated facts.	
03:00:41 PM	J	Not striking anything that I see on 3,4 5 & 6. I don't see why court can't review any of this.	
03:01:31 PM	DA	Page 20 - my client was acquitted of a DUI, it wasn't DWP. Crimes in Shoshone county have been dismissed. Parole violation was for failure to report only, no dirty UA's. James Wickham was a violent offender from State of Montana. There will be a newborn living in house that I will be living and there are not firearms or dangerous animals there. Robert Cook lives in CDA and not Post Falls. 449-7742. My client does have some SA issues. Tried meth at 12 yrs, but didn't become a regular user until age 17 yrs. Page 38 - my client didn't plead guilty.	
03:23:28 PM	PA	No corrections.	
03:23:37 PM	J	Report from Emerald Counseling.	
03:32:24 PM	Deft	I have read the report.	
03:32:35 PM	DA	No corrections.	
03:32:49 PM	PA	No witnesses.	
03:32:54 PM	DA	No witnesses.	
03:33:02 PM	PA	Recommends 3 fixed 3 indeterminate. Retain Jurisdiction and recommend TC rider. PSI author also recommends TC rider. His LSI score is approx 41. Reviews prior record. Reviewed repository 15-115 out of Shoshone. CR14-2177 also pending out of	

		Shoshone. Victim blaming. Taking no responsibility for his actions.
<u>03:37:54 PM</u>	DA	My client doesn't deny that he has a record. He stated he has grown a conscience. He has been accepted in Pastor Tim's Program. He is asking for this treatment.
<u>03:39:03 PM</u>	Deft	When I received this PSI, a lot of stuff makes it sound like I've been found guilty again. A lot of things I did in past - I did wrong to people. When I came back from prison I got caught up on back child support. I cared for Ms. Messerly. I took her from using 40 pills a day, to being clean and sober. I fell in love with who she was. I did love her and gave her my heart and soul. I tried to help her stay sober, but I relapsed in the process. I have remorse. I knew I made a mistake when I hit her. I'm asking for one chance that I can do Good Samaritan Program.
<u>03:43:12 PM</u>	J	Misd - count 4 in the information - \$187.50 fine & cc. 365 jail and 365 days CTS.
<u>03:49:49 PM</u>	J	Felony charge - fel dom battery - 4 fixed 6 indeterminate. Commit to IDOC and not going to retain jurisdiction. Encouraging IDOC to give you anger management and cog restructuring. You need to plan on going into Good Samaritan when you get out. \$270.50 cc. \$100 for PSI. 243 days CTS. 42 days to appeal. You've asked for probation and there is no way I can consider this. You have been very disruptive thru this entire process. You are smirking and that is ok. You are really good at beating crap out of women and doing it consistently for years. Crimes are also focused on drugs. I can consider the police report in its entirety. I found the witness to be credible. These events caused her to be unstable if she were to come into court and testify.
<u>03:55:10 PM</u>	Deft	Keeps talking back to the judge - God Bless You.
<u>03:55:32 PM</u>	J	You will be escorted out of the court room. I will continue without you. Victim would become unstable if she were to testify. No way I can keep in mind the underlying facts of this case. Photographs were quite convincing. No doubt that the harm to neck occurred and threat with knife occurred. I couldn't put him at Good Samaritan because he is so disruptive. 1988 his history began with a felony in CA. Reviews the cases that resulted in convictions. I really see no way Mr. Anderson could be rehabilitated in a year. No hope for Mr. Anderson for 1 year. If in 3.5 years, Good Samaritan is around, Mr. Anderson could apply for this program with parole commissions permission. Protection to public is a component. I don't think he can be rehabilitated in a year. Deterrence is not really a factor. Those are reasons for my decisions.
<u>04:06:34 PM</u>	End	

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FIRST JUDICIAL DISTRICT COURT, STATE OF IDAHO, COUNTY OF KOOTENAI
324 W. GARDEN AVENUE, P.O. BOX 9000, COEUR D'ALENE, IDAHO 83816-9000

STATE OF IDAHO V
DAROL KEITH ANDERSON

JUDGMENT FILED 9/15/15 AT 4:10 P.m.

POST FALLS, ID 83854

DL#

DOB AGENCY: COEUR D'ALENE PD

CASE # CR-2014-0022653 CITATION #

CHARGE: 118-918(3)(B) M BATTERY-DOMESTIC VIOLENCE WITHOUT TRAUMATIC INJURY AGAINST A
HOUSEHOLD MEMBER

CLERK OF THE DISTRICT COURT

BY [Signature], DEPUTY
BOND:

AMENDED:

The defendant having been fully advised of his/her statutory and constitutional rights including the right to be represented by counsel, and

- | | |
|---|--|
| <input type="checkbox"/> Been advised of right to court appointed counsel if indigent | <input type="checkbox"/> Judgment—Not Guilty |
| <input type="checkbox"/> Defendant waived right to counsel | <input checked="" type="checkbox"/> Judgment on Trial—Guilty |
| <input type="checkbox"/> Defendant represented by counsel | <input type="checkbox"/> Judgment for Defendant / Infraction |
| <input type="checkbox"/> Judgment, Plea of Guilty / Rights Waived | <input type="checkbox"/> Judgment for State / Infraction |
| <input type="checkbox"/> Withheld Judgment <input type="checkbox"/> Accepted | <input type="checkbox"/> Bond Forfeited / Conviction Entered - Case Closed |
| <input type="checkbox"/> Dismissed | <input type="checkbox"/> Bond Forfeited / Dismissed |

MONIES ORDERED PAID:

A \$2.00 handling fee will be imposed on each installment.

- ☒ Fine / Penalty \$ 187.50 which includes costs, and probation fee if applicable. Suspended \$ 0
- ☐ Pay within 30 days of today, or enroll in time payment program BEFORE due date.
- ☐ Community Service _____ hours by _____ Setup Fee \$ _____ Insurance Fee \$ _____

Must sign up within 7 days.

- ☐ Reimburse _____
- ☐ Restitution _____
- ☐ Bond Exonerated, provided that any deposit shall first be applied pursuant to Idaho Code 19-2923 in satisfaction of outstanding fines, fees and costs with any remainder to be refunded to the posting party. ☐ Authorization from defendant to pay restitution and/or infractions from bond.
- ☐ No Contact Order, as condition of bond, terminated.

INCARCERATION ORDERED:

- ☒ Jail 365 days, Suspended _____ days, Credit 365 days, Discretionary Jail _____ days are imposed & will be scheduled by the Adult Misdemeanor Probation Office, or Court, for violations of the terms below or on the attached addendum.
- ☐ Report to Jail _____ Release _____ ☐ Work Release Authorization (if you qualify).
- ☐ Sheriff's Community Labor Program in lieu of Jail (if you qualify) _____ hours by _____ Must sign up within 7 days.
- Follow the Labor Program schedule and policies.
- ☐ _____

DRIVING PRIVILEGES SUSPENDED _____ days commencing _____

REINSTATEMENT OF DRIVING PRIVILEGES MUST BE ACCOMPLISHED before you can drive. Apply to DRIVER'S SERVICES, P.O. Box 7129, Boise, ID 83707-1129.

- ☐ Temporary Driving Privileges Granted commencing _____
- To, from and for work purposes / required medical care / court ordered alcohol program / community service. Must carry proof of work schedule and liability insurance at all times. Not valid if insurance expires.

PROBATION ORDERED FOR _____ YEAR(S) ON THE FOLLOWING CONDITIONS:

☐ Supervised - See Addendum

- ☐ Violate no federal, state or local laws more serious than an infraction. ☐ Commit no similar offenses.
- ☐ Maintain liability insurance on any vehicle that you drive.
- ☐ Do not operate a motor vehicle with any alcohol or controlled substances in your bloodstream.
- ☐ You must submit to any blood alcohol concentration test requested of you, with reasonable cause, by a peace officer.
- ☐ Obtain a Substance Abuse/Battery Evaluation, and file proof of evaluation, within _____ days.
- ☐ Enroll in & complete _____ program. File proof of completion within _____ days.
- ☒ Notify the court, in writing, of any address change within 10 days. Agrees to accept future service by mail at the last known address.
- ☐ Interlock ignition device required on vehicle for _____ year(s). To be installed per attached addendum.
- ☐ Other _____

THE SUSPENDED PENALTIES ARE SUBJECT TO YOUR COMPLIANCE WITH ALL TERMS HEREIN
THE DEFENDANT HAS THE RIGHT TO APPEAL
THIS JUDGMENT WITHIN 42 DAYS

Copies To:

Def. IC Def. Atty. IC Pros. IC Date September 15, 2015 Judge# 116

[] AMP (fax 446-1990) [] Dr. Serv. fax 208-334-8739 [] Other [] Comm. Serv. [] Jail (Email: Jail Group) [] nvigil@kcgov.us

Date 9/15/15 Deputy Clerk [Signature] 43673 RE: WCO [] KCSO RECORDS (fax 446-1307) [] Agency 213

FILED

4:10 P.M.

CLERK, DISTRICT COURT

Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

DAROL KEITH ANDERSON

DOB: [REDACTED]

SSN: [REDACTED]

IDOC: 64537

Defendant.

Case No. **CRF 2014 22653**

**SENTENCING DISPOSITION
AND NOTICE OF RIGHT TO
APPEAL**

***This JUDGMENT AND SENTENCE/ORDER FOR RETAINED JURISDICTION
constitute the sentencing disposition in the above matter.***

On September 15, 2015, before the Honorable John T. Mitchell, District Judge, you, **DAROL KEITH ANDERSON**, personally appeared for sentencing. Also appearing were a representative of the Prosecuting Attorney for KOOTENAI County, Idaho and your lawyer, J. Lynn Brooks.

WHEREUPON, the previously ordered presentence report having been filed, and the Court having ascertained that you have had an opportunity to read the presentence report and review it with your lawyer, and you having been given the opportunity to explain, correct or deny parts of the presentence report, and having done so, and you having been given the opportunity to make a statement and having done so, and recommendations having been made by counsel for the State and by your lawyer, and there being no legal reason given why judgment and sentence should not then be pronounced, the Court did then pronounce its sentencing disposition as follows:

IT IS HEREBY ORDERED that you, **DAROL KEITH ANDERSON**, having been found guilty by a jury of the criminal offense charged in the Information on file herein as follows:
COUNT I - DOMESTIC BATTERY, I. C. 18-903, 18-918(2) ;

**THAT YOU, DAROL KEITH ANDERSON, ARE GUILTY OF THE CRIME SO
CHARGED**, and now, therefore,

☒ **IT IS FURTHER ORDERED** that, pursuant to I.C. §19-2513, you are sentenced as follows:
COUNT I - DOMESTIC BATTERY, (a felony), Idaho Code § I. C. 18-903, 18-918(2), committed on September 6, 2014 – to the custody of the Idaho State Board of Correction for a fixed term of FOUR (4) years followed by an indeterminate term of SIX (6) years, for a total term not to exceed TEN (10) years.

☒ **IT IS FURTHER ORDERED** that **DAROL KEITH ANDERSON** is committed to the custody of the Idaho State Board of Correction on the date of the sentencing hearing, September 15, 2015, and that the Clerk shall deliver a copy of this order to the Sheriff,

which shall serve as the commitment of the Defendant to the custody of the Idaho State Board of Correction.

IDOC IS ENCOURAGED TO PROVIDE HIM WITH EXTENSIVE COGNITIVE RESTRUCTURING, ANGER TREATMENT AND DOMESTIC VIOLENCE TREATMENT DURING THE ENTIRE TIME OF HIS FIXED SENTENCE. IN THIS COURT'S OPINION THOSE ISSUES WILL TAKE LONGER THAN A YEAR TO ADDRESS, WHICH IS ONE OF THE REASONS WHY THE COURT DID NOT CONSIDER A RETAINED JURISDICTION. IDOC IS ENCOURAGED TO PROVIDE HIM WITH EXTENSIVE CHEMICAL DEPENDENCY TREATMENT AS HE APPROACHES THE END OF THE FIXED PORTION OF HIS SENTENCE.

THE STATE OF IDAHO COMMISSION OF PARDONS AND PAROLE IS ENCOURAGED NOT TO CONSIDER HIM ELIGIBLE FOR PAROLE UNLESS HE HAS 1) COMPLETED THE ABOVE MENTIONED PROGRAMMING AND 2) HAS A PLAN IN PLACE FOR ONE YEAR IN THE GOOD SAMARITAN REHABILITATION PROGRAM, WHICH IS THE PROGRAM HE INDICATED HE WANTED TO ENTER INTO AT SENTENCING. THIS WOULD PROVIDE A GOOD TRANSITION BACK INTO THE COMMUNITY IF HE IS EVER GRANTED PAROLE.

- ☒ **IT IS FURTHER ORDERED** pursuant to *I.C. § 19-5302* that the court shall reserve jurisdiction to determine the amount of restitution you shall pay your victim(s) in this matter. The amount shall be determined from time to time by stipulation or upon notice and hearing. Thereafter, a separate civil judgment shall be entered against you and in favor of your victims. Such civil judgment bears statutory interest from date of offense.
- ☒ **IT IS FURTHER ORDERED** that, the court having found you to have either the present or the future ability to pay, you shall pay court costs and fees on each count as follows:

Emergency Felony Surcharge (crime committed after 4/15/10)	100.00 ✓
a. Court costs and Domestic Violence case Court costs	47.50 ✓
b. Victim's Comp. Fund, I.C. § 72-1025(1)(a)	75.00 ✓
c. P.O.S.T. Fee	15.00 ✓
d. KOOTENAI Co. Justice Fund	10.00 ✓
e. ISTARs Fund	10.00 ✓
f. Peace/Detention Officer Disability Act	3.00 ✓
g. Victim Notification Fee (VINE)	10.00 ✓
TOTAL	\$270.50

- ☒ **IT IS FURTHER ORDERED** The defendant shall pay an amount to be determined by the Department of Correction, not to exceed one hundred dollars (\$100), for the cost of conducting the presentence investigation and preparing the presentence investigation report. The amount will be determined by the Department and paid by the defendant in accordance with the provisions of I.C. § 19-2516.

- ☒ **IT IS FURTHER ORDERED** that pursuant to Idaho Code § 18-309 you, **DAROL KEITH ANDERSON**, shall be given **243** days credit for time served on any sentence imposed on the above charges. (1/16/15 – 9/15/15 = 243) ✓

NOTICE OF RIGHT TO APPEAL

YOU, DAROL KEITH ANDERSON, ARE HEREBY NOTIFIED that you have a right to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days of the entry of the written order in this matter.

YOU ARE FURTHER NOTIFIED that if you are unable to pay the costs of an appeal, you have the right to apply for leave to appeal in forma pauperis or to apply for the appointment of counsel at public expense. If you have questions concerning your right to appeal, you should consult your present lawyer.

DATED this 15th day of September, 2015.


John T. Mitchell, District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of September, 2015 copies of the foregoing Order were mailed, postage prepaid, or sent by facsimile or interoffice mail to:

✓ Defense Attorney - J. Lynn Brooks - 446-1701
✓ Prosecuting Attorney - 446-1835
✓ Probation & Parole, fax: 760-1481
___ Community Service (Interoffice Mail)
___ KOOTENAI County Auditor (Interoffice Mail)
___ GLOBAL DRUG TESTING via FAX : 664-6045

Fax 665-0220

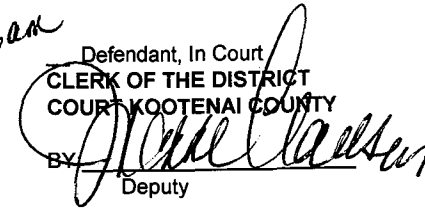
2168 Fax

email

___ KOOTENAI County Sheriff
___ ID Dept. of Transp. (208) 334-8739
✓ Idaho Department of Correction
[certified copy faxed to (208) 327-7445]
___ IDOC CCD, fax (208) 658-2186
___ Pre-Trial Services, fax 446-1407

warrants
email 9:16am

email

Defendant, In Court
CLERK OF THE DISTRICT COURT KOOTENAI COUNTY
BY 
Deputy

___ IDOC, CCD, IDOC DIST 1 : Dist1@idoc.idaho.gov; Ccdsentencingd1@idoc.idaho.gov; centralrecords@idoc.idaho.gov

#2561 9:11am

STATE OF IDAHO
COUNTY OF KOOTENAI

FILED:

2015 OCT 19 AM 10:38

CLERK DISTRICT COURT

To Whom it may Concern,

To the 9th District Court & the Idaho State Bar

I would like to Request a full case Review on all the Proceedings INVOLVING my case. My Attorney Lynn Brooks, I Believe did not defend me to the Best of her Ability and I have Reason to Believe she Layed Down in my case and did not submit Evidence in my case that would have cleared me. she Allowed Judge Mitchell to violate my 1st & 6th Ammendment Right, and I know that Judge Mitchell has Personal Ties to the "Victim" in this case. And If you further Review the Victim, Mrs ERICA Messerly Did in fact Go through Judge Mitchell's Mental health Court which if you Review Mrs Messerly's Mental health is not A mentally stable Person and has An extensive Mental health history and has Been through Drug Treatment over 14 times. Her P.T.S.D Causes Violant tendency and I believe is Caused By Judge Mitchell's Mental health Court. Which All these facts Were kept from the Jury and I was Told By the Court if I spoke up I would Be Bound & Gagged. which is A Violation of my 1st Ammendment. So Through All this I've tried to Contact my Attorney to file an Appeal & A Rule 35 But she will not Answer my

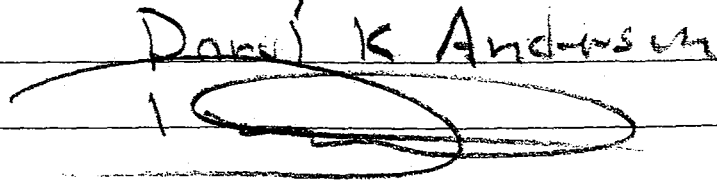
897C-9777-
cc: 3903-1-1 Brooks
Info Date
#332

PHOTOGRAPHY

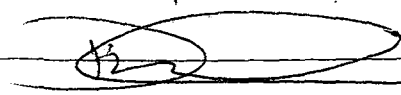
Phone calls I would like the 9th District Court to Review this and the Idaho State Bar. I Believe that Judge Mitchell feels that he is Above the law and I know that my 1st Ammendment & my 6th Ammendment Rights have Been Violated and my Right to A fair & speedy Jury Trial Was Violated

Sincerely

Darol K Anderson
519-06-8448
01/13/70
CR-2014-22653

Darol K Anderson


Notary



State of Idaho

County of Shoshone

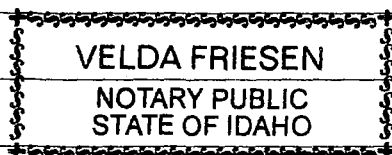
Velda Friesen

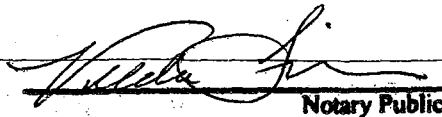
I, Darol K Anderson, a Notary Public, certify

this 15th day of October, 2015, the foregoing/attached

document is a true, correct, complete and unaltered copy of

made by




Notary Public

My Commission Expires 02-01-19

Darol K Anderson
INMATE'S MAIL
Shoshone County Jail
717 Bank Street
Wallace, ID 83873

64537

neopost
10/16/2015

US POSTAGE

FIRST-CLASS MAIL

\$00.48⁵



ZIP 83873
041L10234166

83814#2100

District Court
324 W Garden Ave
CDA, Idaho
Indigent

J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

STATE OF IDAHO } SS 116
 COUNTY OF KOOTENAI }
 FILED: *[Signature]* #670
 2015 OCT 23 AM 11:23

CLERK DISTRICT COURT
[Signature]
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff/Respondent,	)	CASE NUMBER CR-14-22653
)	
V.)	
	)	NOTICE OF APPEAL
DAROL KEITH ANDERSON,)	
)	
Defendant/Appellant.)	
_____)	

TO: THE ABOVE NAMED RESPONDENT, STATE OF IDAHO, AND THE
 RESPONDENT'S ATTORNEY BARRY MCHUGH, KOOTENAI COUNTY PROSECUTOR, P.O.
 BOX 9000, COEUR D'ALENE, ID 83816; AND THE CLERK OF THE ABOVE ENTITLED
 COURT:

1. The above named Appellant appeals against the above named Respondent to the Idaho Supreme Court from the District Court's Judgment, entered in the above entitled matter on September 15, 2015, the Honorable John T. Mitchell, District Judge presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph one above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).
3. A preliminary statement of the issues on appeal, which the appellant then intends to

assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, are:

(a) Whether the District Court erred by granting the State's Motion in Limine by declaring Erica Messerly "unavailable" for purposes of Idaho Rule of Evidence 804, and allowing the State to present Erica Messerly's testimony by use of the transcript of her Preliminary Hearing testimony.

(b) Whether the District Court erred by granting the State's Second Motion in Limine regarding defense evidence alleged to be excludable under Idaho Rule of Evidence 404(b).

(c) Whether Defendant's Sixth Amendment right to a fair trial and right of confrontation were violated when the District Court ejected Defendant from the courtroom during the first day of trial.

(d) Whether the evidence admitted at the trial was sufficient to sustain the jury's guilty verdicts on the charges of felony domestic battery and misdemeanor domestic battery.

(e) Whether the District Court imposed an excessive sentence.

4. The Presentence Investigation Report dated September 7, 2015 is sealed.

5. Reporter's Transcript. The appellant requests the preparation of the entire reporter's standard transcript as defined in I.A.R. 25(d). The appellant also request the preparation of the additional portions of the reporter's transcript: Hearing on State's Motion in Limine and State's Second Motion in Limine. (Court Reporter: Kim Hannan, no estimation of pages was listed on the Register of Actions).

6. Clerk's Record. The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2): any exhibits, including but not

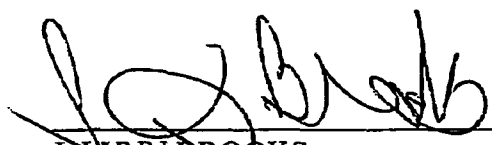
limited to letters or victim impact statements, or other items offered at the Sentencing Hearing.

7. I certify:

- (a) That a copy of this Notice of Appeal has been served on the Court Reporter.
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code § 31-3220, 31-3220A, I.A.R. 24(h));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code § 31-3220, 31-3220A, I.A.R. 24(e)(8));
- (d) That arrangements have been made with Kootenai County who will be responsible for paying for the reporter's transcript, as the client is indigent, Idaho Code § 31-3220, 31-3220A, I.A.R. 24(h);
- (e) That service has been made upon all parties required to be served pursuant to I.A.R.

20.

DATED this 23rd day of October, 2015.

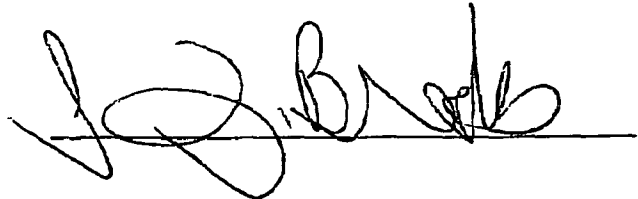


J. LYNN BROOKS
ATTORNEY FOR DEFENDANT
AS CONFLICT PUBLIC DEFENDER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 23rd day of October, 2015, served a true and correct copy of the attached NOTICE OF APPEAL as indicated upon the parties as follows:

- | | | |
|---------------|--|--|
| <u> X </u> | Kootenai County Prosecuting Attorney
P.O. Box 9000
Coeur d'Alene, Idaho 83816-9000 | via fax to 446-2168 |
| <u> X </u> | State Appellate Public Defender
3050 Lake Harbor Lane, Suite 100
Boise, Idaho 83703 | <input type="checkbox"/> First Class Mail
<input type="checkbox"/> Certified Mail
<input checked="" type="checkbox"/> Facsimile (208) 334-2985 |
| <u> X </u> | Lawrence G. Wasden
Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010 | <input type="checkbox"/> First Class Mail
<input type="checkbox"/> Certified Mail
<input checked="" type="checkbox"/> Facsimile (208) 854-8071 |
| <u> X </u> | Reporter for District Judge John T. Mitchell, Julie Foland (Kootenai County, PO Box 000, Coeur d'Alene, ID 83816) via first class mail. | |
| <u> </u> | Reporter for District Judge Fred M. Gibler, Byrl R. Cinnamon (Kootenai County, PO Box 9000, Coeur d'Alene, ID 83816) via first class mail. | |
| <u> </u> | Reporter for District Judge Rich Christensen, Anne MacMannus (Kootenai County, PO Box 9000, Coeur d'Alene, ID 83816) via first class mail. | |
| <u> </u> | Reporter for District Judge Benjamin Simpson, JoAnn Schaller (Kootenai County, PO Box 9000, Coeur d'Alene, ID 83816) via first class mail. | |
| <u> </u> | Reporter for District Judge Lansing Haynes, Valerie Nunemacher (Kootenai County, PO Box 9000, Coeur d'Alene, ID 83816) via first class mail. | |



J. Lynn Brooks, Attorney at Law
 Conflict Public Defender
 P.O. Box 2931
 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-14-22653
)	
V.	)	MOTION FOR APPOINTMENT OF
	)	STATE APPELLATE PUBLIC DEFENDER
DAROL KEITH ANDERSON,	)	IN DIRECT APPEAL; RETAINING TRIAL
	)	COUNSEL FOR RESIDUAL PURPOSES
Defendant.)	

COMES NOW, the above named Defendant, by and through his attorney, J. Lynn Brooks, and hereby moves the Court for an Order pursuant to Idaho Code §19-867, et seq., and Idaho Appellate Rules 13 and 45.1 for its order appointing the State Appellate Public Defender's Office to represent the Appellant in all further proceedings. This motion is brought on the grounds and for the reasons that the Defendant is currently being represented by J. Lynn Brooks, Attorney at Law, in her capacity as Kootenai County Conflict Public Defender; the State Appellate Public Defender is authorized by statute to represent the Defendant in all felony appellate proceedings; and it is in the interest of justice, for them to do so in this case since the Defendant is indigent, and any further proceedings on this case will be appealed.

**MOTION FOR APPOINTMENT OF STATE APPELATE PUBLIC DEFENDER
 IN DIRECT APPEAL; RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES**

PAGE 1

DATED this 23rd day of October, 2015.



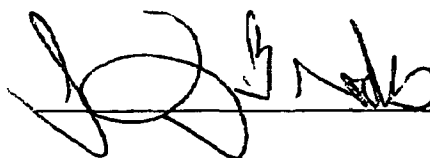
J. LYNN BROOKS

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 23rd day of October, 2015, served a true and correct copy of the attached MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER as indicated upon the parties as follows:

<u> X </u>	Kootenai County Prosecuting Attorney	via fax to 446-2168
<u> X </u>	State Appellate Public Defender 3050 Lake Harbor Lane, Suite 100 Boise, Idaho 83703	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input checked="" type="checkbox"/> Facsimile (208) 334-2985
<u> X </u>	Lawrence G. Wasden Attorney General P.O. Box 83720 Boise, Idaho 83720-0010	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input checked="" type="checkbox"/> Facsimile (208) 854-8071
<u> X </u>	Reporter for District Judge John T. Mitchell, Julie Foland (Kootenai County, PO Box 000, Coeur d'Alene, ID 83816) via first class mail.	



J. Lynn Brooks, Attorney at Law
Conflict Public Defender
P.O. Box 2931
Hayden, Idaho 83835
Telephone: (208) 665-0385
Fax: (208) 665-0220
brookslawcda@roadrunner.com
Bar Number: 3623

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2015 OCT 26 AM 10:22

CLERK DISTRICT COURT
[Signature]
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-14-22653
)	
V.	)	MOTION FOR APPOINTMENT OF
	)	STATE APPELLATE PUBLIC DEFENDER
DAROL KEITH ANDERSON,)	IN DIRECT APPEAL; RETAINING TRIAL
)	COUNSEL FOR RESIDUAL PURPOSES
Defendant.)	

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**MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER
IN DIRECT APPEAL; RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES** **PAGE 1**

DATED this 23rd day of October, 2015.




J. LYNN BROOKS
ATTORNEY FOR DEFENDANT

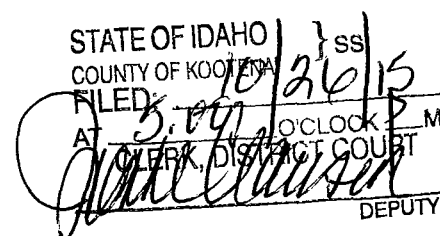
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 23rd day of October, 2015, served a true and correct copy of the attached MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER as indicated upon the parties as follows:

<u> X </u>	Kootenai County Prosecuting Attorney	via fax to 446-2168
<u> X </u>	State Appellate Public Defender 3050 Lake Harbor Lane, Suite 100 Boise, Idaho 83703	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input checked="" type="checkbox"/> Facsimile (208) 334-2985
<u> X </u>	Lawrence G. Wasden Attorney General P.O. Box 83720 Boise, Idaho 83720-0010	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input checked="" type="checkbox"/> Facsimile (208) 854-8071
<u> X </u>	Reporter for District Judge John T. Mitchell, Julie Foland (Kootenai County, PO Box 000, Coeur d'Alene, ID 83816) via first class mail.	



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 Hayden, Idaho 83835
 Telephone: (208) 665-0385
 Fax: (208) 665-0220
 brookslawcda@roadrunner.com
 Bar Number: 3623



**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAROL KEITH ANDERSON,

Defendant.

CASE NUMBER CR-14-22653

**ORDER FOR APPOINTMENT OF STATE
 APPELLATE PUBLIC DEFENDER IN
 DIRECT APPEAL; RETAINING TRIAL
 COUNSEL FOR RESIDUAL PURPOSES**

TO: OFFICE OF THE IDAHO STATE APPELLATE PUBLIC DEFENDER, AND, J.
 LYNN BROOKS, CONFLICT PUBLIC DEFENDER, KOOTENAI COUNTY.

A judgment having been entered by this Court on September 15, 2015, and the defendant having requested the aid of counsel in pursuing a direct appeal from this district court in this felony matter, and defendant's trial counsel having filed a timely notice of appeal, and the Court being satisfied that said defendant continues to be a needy person entitled to public representation, therefore,

IT IS HEREBY ORDERED, in accordance with I.C. 19-870, that the State Appellate Public Defender is appointed to represent defendant in all further proceedings involving his appeal.

IT IS FURTHER ORDERED that trial counsel shall remain as appointed counsel of record

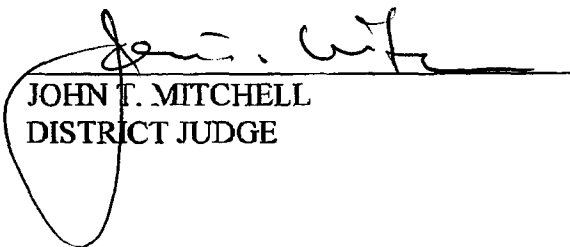
**ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER IN DIRECT APPEAL;
 RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES**

Page 1

for all other matters involving action in the trial court which, if resulting in an order in defendant's favor, could affect the judgment, order or sentencing in the action, until the expiration of the time limit for filing said motions or, if sought and denied, upon the expiration of the time for appeal of such ruling with the responsibility to decide whether or not a further appeal will be taken in such matters.

IT IS FURTHER ORDERED that trial counsel shall cooperate with the Office of State Appellate Public Defender in the prosecution of defendant's appeal.

DATED this 26th day of October, 2015.

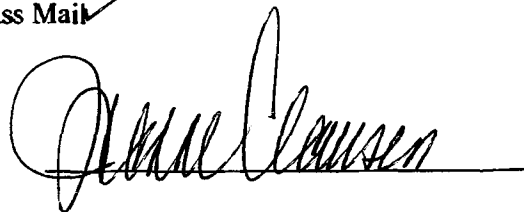

JOHN T. MITCHELL
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 29 day of October, 2015 served a true and correct copy of the attached ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER via facsimile, courthouse mail or as otherwise indicated upon the parties as follows:

<u>X</u>	J. Lynn Brooks, Conflict Public Defender	<input checked="" type="checkbox"/> <input type="checkbox"/>	First Class Mail Facsimile (208) 665-0220
<u>X</u>	Kootenai County Prosecuting Attorney	<input checked="" type="checkbox"/> <input type="checkbox"/>	Email to _____ Facsimile 446-2168
<u>X</u>	State Appellate Public Defender 3050 Lake Harbor Lane, Suite 100 Boise, Idaho 83703	<input type="checkbox"/> <input checked="" type="checkbox"/>	First Class Mail Certified Mail Facsimile (208) 334-2985
<u>X</u>	Lawrence G. Wasden Attorney General P.O. Box 83720 Boise, Idaho 83720-0010	<input type="checkbox"/> <input checked="" type="checkbox"/>	First Class Mail Certified Mail Facsimile (208) 854-8071
_____	Supreme Court (certified)	<input checked="" type="checkbox"/> <input type="checkbox"/>	First Class Mail Fax Certified (208) 334-2616
<u>X</u>	Reporter for District Judge John T. Mitchell, Julie Foland (Kootenai County, PO Box 9000, Coeur d'Alene, ID 83816) via First Class Mail ✓		

#3955



For Kootenai County Clerk Processing Appeal:

<u>X</u>	Supreme Court (certified copy)	<input checked="" type="checkbox"/> <input type="checkbox"/>	First Class Mail Fax Certified (208) 334-2616
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Sent 10/30/15 by Lynn Brooks, Deputy Clerk

**ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER IN DIRECT APPEAL;
RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES** Page 3

Amanda McCandless

From: supremecourtdocuments@idcourts.net
Sent: Monday, November 09, 2015 11:37 AM
To: amccandless@kcgov.us; JMITCHELL@CO.KOOTENAI.ID.US; STHOMAS@SAPD.STATE.ID.US; documents@sapd.state.id.us; ecf@ag.idaho.gov; JFOLAND@KCGOV.US; coreilly@kcgov.us
Subject: 43673 - STATE v. ANDERSON (Kootenai CR-2014-22653)
Attachments: 43673 CC.pdf; 43673 NOA.pdf

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:

2015 NOV -9 PM 3:22

CLERK DISTRICT COURT

DEPUTY

FILED NOTICE OF APPEAL - TRANSCRIPTS REQUESTED - PLEASE SEE ATTACHMENTS. **SET DUE DATE - REPORTER'S TRANSCRIPTS (Reporter's Lodging Date: 12-07-15) AND CLERK'S RECORD DUE 01-11-16** Please review the CLERK'S CERTIFICATE OF APPEAL (ATTACHED) and notify the Court of any errors.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO
Plaintiff/Respondent

Vs.

Darol Keith Anderson
Defendant/Appellant

SUPREME COURT NO

CLERK'S CERTIFICATE
OF APPEAL

Supreme Court No. 43673

Appeal From: FIRST JUDICIAL DISTRICT, KOOTENAI COUNTY
HONORABLE JUDGE, John Mitchell, Presiding.

Court Case CR 2014-22653

Sentencing Disposition In the above entitled matter on the 15th day of September 2015

Attorney for Appellant: J. Lynn Brooks Appellant State Public Defender

Attorney for Respondent: Lawrence G. Wasden Office Attorney General

Appeal By: Darol Keith Anderson

Appeal Against: State of Idaho

Notice of Appeal Filed 10/23/15

Notice of Cross Appeal Filed: N/A

Appellant Fee Paid: N/A

Was District Court Reporter's Transcript requested? YES

Name of Reporter: Kim Hannan

DATE: 10/23/15

JIM BRANNON

CLERK OF DISTRICT COURT

By: 

Deputy Clerk

CLERK'S CERTIFICATE OF APPEAL

RECEIVED
IDAHO SUPREME COURT
COURT OF APPEALS
2015 NOV - 2 AM 10:24

ORIGINAL
NOV - 22 2015
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kg